A bill to be entitled

An act relating to Medicaid; amending s. 393.0661, F.S.; requiring the Agency for Persons with Disabilities to collect premiums or cost sharing for a home and community-based delivery system; providing that implementation of Medicaid waiver programs and services authorized under ch. 393, F.S., are subject to certain funding limitations; requiring that certain provisions relating to agency cost containment initiatives be included in contracts with independent support coordinators and service providers; providing for establishment of agency corrective action plans and redesign of the waiver program under certain circumstances; requiring the plan to be submitted to the Legislature; amending s. 393.063, F.S.; defining the term "Down syndrome"; amending s. 408.040, F.S.; prohibiting the agency from imposing sanctions related to patient day utilization by patients eligible for care under Title XIX of the Social Security Act for a nursing home, effective on a specified date; amending s. 408.0435, F.S.; extending the certificate-of-need moratorium for additional community nursing home beds; designating ss. 409.016-409.803, F.S., as pt. I of ch. 409, F.S., and entitling the part "Social and Economic Assistance"; designating ss. 409.810-409.821, F.S., as pt. II of ch. 409, F.S., and entitling the part "Kidcare"; designating ss. 409.901-409.9205, F.S., as part III of ch. 409, F.S., and entitling the part "Medicaid"; amending s. 409.9021, F.S.; revising the time period during which a Medicaid applicant

must agree to forfeiture of all entitlements upon a judicial or administrative finding of fraud; amending s. 409.905, F.S.; requiring the Agency for Health Care Administration to set reimbursements rates for hospitals that provide Medicaid services based on allowable-cost reporting from the hospitals; removing requirements for prior authorization for the provision of certain services; providing the methodology for the rate calculation and adjustments; requiring the rates to be subject to certain limits or ceilings; authorizing the agency to require prior authorization of home health services under certain conditions; providing that exemptions to the limits or ceilings may be provided in the General Appropriations Act; deleting provisions relating to agency adjustments to a hospital's inpatient per diem rate; directing the agency to develop a plan to convert inpatient hospital rates to a prospective payment system that categorizes each case into diagnosis-related groups; requiring a report to the Governor and Legislature; amending s. 409.906, F.S.; providing conditions under which the agency shall seek federal approval to develop a system to require payment of premiums or other cost sharing by the parents of certain children receiving Medicaid home and community-based waiver services; authorizing the Department of Children and Family Services to collect certain income information; requiring a report to the Legislature; amending s. 409.907, F.S.; providing additional requirements for provider agreements for Medicare crossover providers;

providing that the agency is not obligated to enroll certain providers as Medicare crossover providers; specifying additional requirements for certain providers; providing the agency may establish additional criteria for providers to promote program integrity; amending s. 409.908, F.S.; revising provisions relating to reimbursement of Medicaid direct care providers to include additional, specified medically necessary care; amending s. 409.9081, F.S.; providing conditions for copayments by Medicaid recipients for nonemergency care and services provided in a hospital emergency; amending s. 409.911, F.S.; providing for expiration of the Medicaid Low-Income Pool Council; amending s. 409.912, F.S.; providing payment requirements for provider service networks; providing for the expiration of various provisions relating to agency contracts and agreements with certain entities on specified dates to conform to the reorganization of Medicaid managed care; requiring the agency to contract on a prepaid or fixed-sum basis with certain prepaid dental health plans; eliminating obsolete provisions and updating provisions, to conform; amending ss. 409.91195 and 409.91196, F.S.; conforming cross-references; repealing s. 409.91207, F.S., relating to the medical home pilot project; amending s. 409.91211, F.S.; conforming cross-references; providing for future repeal of s. 409.91211, F.S., relating to the Medicaid managed care pilot program; amending s. 409.9122, F.S.; providing for the expiration of provisions relating to mandatory enrollment in a

Medicaid managed care plan or MediPass on specified dates to conform to the reorganization of Medicaid managed care; eliminating obsolete provisions; providing for the agency to assign Medicaid recipients with HIV/AIDS in specified counties to a managed care plan that is a health maintenance organization under certain conditions; requiring the agency to develop a process to enable any recipient with access to employer-sponsored coverage to opt out of eligible plans in the Medicaid program; requiring the agency, contingent on federal approval, to enable recipients with access to other coverage or related products that provide access to specified health care services to opt out of eligible plans in the Medicaid program; requiring the agency to maintain and operate the Medicaid Encounter Data System; requiring the agency to conduct a review of encounter data and publish the results of the review before adjusting rates for prepaid plans; authorizing the agency to establish a designated payment for specified Medicare Advantage Special Needs members; authorizing the agency to develop a designated payment for Medicaid-only covered services for which the state is responsible; requiring the agency to establish, and managed care plans to use, a uniform method of accounting for and reporting medical and nonmedical costs; authorizing the agency to create exceptions to mandatory enrollment in managed care under specified circumstances; requiring the agency to contract with a provider service network to function as a third-party administrator and

managing entity for the MediPass program; providing contract provisions; providing for the expiration of such contract requirements on a specified date; requiring the agency to contract with a single provider service network to function as a third-party administrator and managing entity for the Medically Needy program; providing contract provisions; providing for the expiration of such contract requirements on a specified date; amending s. 430.04, F.S.; eliminating obsolete provisions; requiring the Department of Elderly Affairs to develop a transition plan for specified elders and disabled adults receiving long-term care Medicaid services when eligible plans become available; providing for expiration of the plan; amending s. 430.2053, F.S.; eliminating obsolete provisions; providing additional duties of aging resource centers; providing an additional exception to direct services that may not be provided by an aging resource center; providing an expiration date for certain services administered through aging resource centers; providing for the cessation of specified payments by the department as eligible plans become available; providing for a memorandum of understanding between the agency and aging resource centers under certain circumstances; eliminating provisions requiring reports; repealing s. 430.701, F.S., relating to legislative findings and intent and approval for action relating to provider enrollment levels; repealing s. 430.702, F.S., relating to the Long-Term Care Community Diversion Pilot Project Act; repealing s.

430.703, F.S., relating to definitions; repealing s. 430.7031, F.S., relating to the nursing home transition program; repealing s. 430.704, F.S., relating to evaluation of long-term care through the pilot projects; repealing s. 430.705, F.S., relating to implementation of long-term care community diversion pilot projects; repealing s. 430.706, F.S., relating to quality of care; repealing s. 430.707, F.S., relating to contracts; repealing s. 430.708, F.S., relating to certificate of need; repealing s. 430.709, F.S., relating to reports and evaluations; renumbering ss. 409.9301, 409.942, 409.944, 409.945, 409.946, 409.953, and 409.9531, F.S., as ss. 402.81, 402.82, 402.83, 402.84, 402.85, 402.86, and 402.87, F.S., respectively; amending ss. 443.111 and 641.386, F.S.; conforming cross-references; amending s. 766.118, F.S.; providing a limitation on noneconomic damages for negligence of practitioners providing medical services and medical care to Medicaid recipients; defining terms for purposes of the limitation; requiring the agency to develop a plan to implement and seek federal approval for the medically needy program for Medicaid enrollees; requiring the agency to develop a reorganization plan for realignment of administrative resources of the Medicaid program; requiring the plan to be submitted to the Governor and Legislature; amending s. 393.0662, F.S.; including certain individuals with Down syndrome or a developmental disability as eligible to participate in the iBudget system; amending s. 409.902, F.S.; restricting

Medicaid eligibility to citizens of the United States who meet certain criteria; amending s. 641.19, F.S.; defining the term "provider service network" for purposes of pt. I of ch. 641, F.S.; creating s. 641.2019, F.S.; providing conditions under which a prepaid provider service network may obtain a certificate of authority under s. 641.21, F.S.; amending s. 641.2261, F.S.; providing an exception for provider service networks from certain federal solvency requirements; providing for severability; providing effective dates and a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 393.0661, Florida Statutes, is amended to read:

393.0661 Home and community-based services delivery system; comprehensive redesign.—The Legislature finds that the home and community-based services delivery system for persons with developmental disabilities and the availability of appropriated funds are two of the critical elements in making services available. Therefore, it is the intent of the Legislature that the Agency for Persons with Disabilities shall develop and implement a comprehensive redesign of the system.

(1) The redesign of the home and community-based services system shall include, at a minimum, all actions necessary to achieve an appropriate rate structure, client choice within a specified service package, appropriate assessment strategies, an efficient billing process that contains reconciliation and

monitoring components, and a redefined role for support coordinators that avoids potential conflicts of interest and ensures that family/client budgets are linked to levels of need.

(a) The agency shall use an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the Department of Children and Family Services' Individual Cost Guidelines or the agency's Questionnaire for Situational Information. The agency may contract with an external vendor or may use support coordinators to complete client assessments if it develops sufficient safeguards and training to ensure ongoing inter-rater reliability.

(b) The agency, with the concurrence of the Agency for Health Care Administration, may contract for the determination of medical necessity and establishment of individual budgets.

(2) A provider of services rendered to persons with developmental disabilities pursuant to a federally approved waiver shall be reimbursed according to a rate methodology based upon an analysis of the expenditure history and prospective costs of providers participating in the waiver program, or under any other methodology developed by the Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, and approved by the Federal Government in accordance with the waiver.

(3) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval and implement a four-tiered waiver system to serve eligible clients through the developmental disabilities and family and supported living waivers. For the purpose of this waiver program, eligible

clients shall include individuals with a diagnosis of Down syndrome or a developmental disability as defined in s. 393.063. The agency shall assign all clients receiving services through the developmental disabilities waiver to a tier based on the Department of Children and Family Services' Individual Cost Guidelines, the agency's Questionnaire for Situational Information, or another such assessment instrument deemed to be valid and reliable by the agency; client characteristics, including, but not limited to, age; and other appropriate assessment methods.

(a) Tier one is limited to clients who have service needs that cannot be met in tier two, three, or four for intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others. Total annual expenditures under tier one may not exceed $150,000 per client each year, provided that expenditures for clients in tier one with a documented medical necessity requiring intensive behavioral residential habilitation services, intensive behavioral residential habilitation services with medical needs, or special medical home care, as provided in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook, are not subject to the $150,000 limit on annual expenditures.

(b) Tier two is limited to clients whose service needs include a licensed residential facility and who are authorized to receive a moderate level of support for standard residential habilitation services or a minimal level of support for behavior

focus residential habilitation services, or clients in supported living who receive more than 6 hours a day of in-home support services. Total annual expenditures under tier two may not exceed $53,625 per client each year.

(c) Tier three includes, but is not limited to, clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures under tier three may not exceed $34,125 per client each year.

(d) Tier four includes individuals who were enrolled in the family and supported living waiver on July 1, 2007, who shall be assigned to this tier without the assessments required by this section. Tier four also includes, but is not limited to, clients in independent or supported living situations and clients who live in their family home. Total annual expenditures under tier four may not exceed $14,422 per client each year.

(e) The Agency for Health Care Administration shall also seek federal approval to provide a consumer-directed option for persons with developmental disabilities which corresponds to the funding levels in each of the waiver tiers. The agency shall implement the four-tiered waiver system beginning with tiers one, three, and four and followed by tier two. The agency and the Agency for Health Care Administration may adopt rules necessary to administer this subsection.

(f) The agency shall seek federal waivers and amend contracts as necessary to make changes to services defined in federal waiver programs administered by the agency as follows:

1. Supported living coaching services may not exceed 20

hours per month for persons who also receive in-home support services.

2. Limited support coordination services is the only type of support coordination service that may be provided to persons under the age of 18 who live in the family home.

3. Personal care assistance services are limited to 180 hours per calendar month and may not include rate modifiers. Additional hours may be authorized for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.

4. Residential habilitation services are limited to 8 hours per day. Additional hours may be authorized for persons who have intensive medical or adaptive needs and if such hours are essential for avoiding institutionalization, or for persons who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harming themselves or others. This restriction shall be in effect until the four-tiered waiver system is fully implemented.

5. Chore services, nonresidential support services, and homemaker services are eliminated. The agency shall expand the definition of in-home support services to allow the service provider to include activities previously provided in these eliminated services.

6. Massage therapy, medication review, and psychological assessment services are eliminated.

7. The agency shall conduct supplemental cost plan reviews to verify the medical necessity of authorized services for plans that have increased by more than 8 percent during either of the

2 preceding fiscal years.

8. The agency shall implement a consolidated residential habilitation rate structure to increase savings to the state through a more cost-effective payment method and establish uniform rates for intensive behavioral residential habilitation services.

9. Pending federal approval, the agency may extend current support plans for clients receiving services under Medicaid waivers for 1 year beginning July 1, 2007, or from the date approved, whichever is later. Clients who have a substantial change in circumstances which threatens their health and safety may be reassessed during this year in order to determine the necessity for a change in their support plan.

10. The agency shall develop a plan to eliminate redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating such services.

11. The agency shall develop a plan to reduce the intensity and frequency of supported employment services to clients in stable employment situations who have a documented history of at least 3 years' employment with the same company or in the same industry.

(4) The geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services shall be 7.5 percent.

(5) The geographic differential for Monroe County for residential habilitation services shall be 20 percent.

(6) Effective January 1, 2010, and except as otherwise

provided in this section, a client served by the home and community-based services waiver or the family and supported living waiver funded through the agency shall have his or her cost plan adjusted to reflect the amount of expenditures for the previous state fiscal year plus 5 percent if such amount is less than the client's existing cost plan. The agency shall use actual paid claims for services provided during the previous fiscal year that are submitted by October 31 to calculate the revised cost plan amount. If the client was not served for the entire previous state fiscal year or there was any single change in the cost plan amount of more than 5 percent during the previous state fiscal year, the agency shall set the cost plan amount at an estimated annualized expenditure amount plus 5 percent. The agency shall estimate the annualized expenditure amount by calculating the average of monthly expenditures, beginning in the fourth month after the client enrolled, interrupted services are resumed, or the cost plan was changed by more than 5 percent and ending on August 31, 2009, and multiplying the average by 12. In order to determine whether a client was not served for the entire year, the agency shall include any interruption of a waiver-funded service or services lasting at least 18 days. If at least 3 months of actual expenditure data are not available to estimate annualized expenditures, the agency may not rebase a cost plan pursuant to this subsection. The agency may not rebase the cost plan of any client who experiences a significant change in recipient condition or circumstance which results in a change of more than 5 percent to his or her cost plan between July 1 and the date

that a rebased cost plan would take effect pursuant to this subsection.

(7) The agency shall collect premiums or cost sharing pursuant to s. 409.906(13)(d).

(8) ~~(7)~~ ~~Nothing in~~ This section or related ~~in any administrative~~ rule does not ~~shall be construed to~~ prevent or limit the Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or from limiting enrollment, or making any other adjustment necessary to comply with the availability of moneys and any limitations or directions provided ~~for~~ in the General Appropriations Act.

(9) ~~(8)~~ The Agency for Persons with Disabilities shall submit quarterly status reports to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House Fiscal Council or its successor regarding the financial status of home and community-based services, including the number of enrolled individuals who are receiving services through one or more programs; the number of individuals who have requested services who are not enrolled but who are receiving services through one or more programs, with a description indicating the programs from which the individual is receiving services; the number of individuals who have refused an offer of services but who choose to remain on the list of individuals waiting for services; the number of individuals who have requested services but who are receiving no services; a frequency distribution indicating the length of time

individuals have been waiting for services; and information concerning the actual and projected costs compared to the amount of the appropriation available to the program and any projected surpluses or deficits. If at any time an analysis by the agency, in consultation with the Agency for Health Care Administration, indicates that the cost of services is expected to exceed the amount appropriated, the agency shall submit a plan in accordance with subsection (8) ~~(7)~~ to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House Fiscal Council or its successor to remain within the amount appropriated. The agency shall work with the Agency for Health Care Administration to implement the plan so as to remain within the appropriation.

(10) Implementation of Medicaid waiver programs and services authorized under this chapter is limited by the funds appropriated for the individual budgets pursuant to s. 393.0662 and the four-tiered waiver system pursuant to subsection (3). Contracts with independent support coordinators and service providers must include provisions requiring compliance with agency cost containment initiatives. The agency shall implement monitoring and accounting procedures necessary to track actual expenditures and project future spending compared to available appropriations for Medicaid waiver programs. When necessary based on projected deficits, the agency must establish specific corrective action plans that incorporate corrective actions of contracted providers that are sufficient to align program expenditures with annual appropriations. If deficits continue during the 2012-2013 fiscal year, the agency in conjunction with

the Agency for Health Care Administration shall develop a plan to redesign the waiver program and submit the plan to the President of the Senate and the Speaker of the House of Representatives by September 30, 2013. At a minimum, the plan must include the following elements:

(a) Budget predictability.—Agency budget recommendations must include specific steps to restrict spending to budgeted amounts based on alternatives to the iBudget and four-tiered Medicaid waiver models.

(b) Services.—The agency shall identify core services that are essential to provide for client health and safety and recommend elimination of coverage for other services that are not affordable based on available resources.

(c) Flexibility.—The redesign shall be responsive to individual needs and to the extent possible encourage client control over allocated resources for their needs.

(d) Support coordination services.-The plan shall modify the manner of providing support coordination services to improve management of service utilization and increase accountability and responsiveness to agency priorities.

(e) Reporting.—The agency shall provide monthly reports to the President of the Senate and the Speaker of the House of Representatives on plan progress and development on July 31, 2013, and August 31, 2013.

(f) Implementation.—The implementation of a redesigned program is subject to legislative approval and shall occur no later than July 1, 2014. The Agency for Health Care Administration shall seek federal waivers as needed to implement

the redesigned plan approved by the Legislature.

Section 2. Subsections (13) through (40) of section 393.063, Florida Statutes, are renumbered as subsections (14) through (41), respectively, and a new subsection (13) is added to that section to read:

393.063 Definitions.—For the purposes of this chapter, the term:

(13) "Down syndrome" means a disorder caused by the presence of an extra chromosome 21.

Section 3. Paragraph (e) of subsection (1) of section 408.040, Florida Statutes, is redesignated as paragraph (d), and paragraph (b) and present paragraph (d) of that subsection are amended to read:

408.040 Conditions and monitoring.—

(1)

(b) The agency may consider, in addition to the other criteria specified in s. 408.035, a statement of intent by the applicant that a specified percentage of the annual patient days at the facility will be utilized by patients eligible for care under Title XIX of the Social Security Act. Any certificate of need issued to a nursing home in reliance upon an applicant's statements that a specified percentage of annual patient days will be utilized by residents eligible for care under Title XIX of the Social Security Act must include a statement that such certification is a condition of issuance of the certificate of need. The certificate-of-need program shall notify the Medicaid program office and the Department of Elderly Affairs when it imposes conditions as authorized in this paragraph in an area in

which a community diversion pilot project is implemented. Effective July 1, 2012, the agency may not impose sanctions related to patient day utilization by patients eligible for care under Title XIX of the Social Security Act for nursing homes.

~~(d) If a nursing home is located in a county in which a long-term care community diversion pilot project has been implemented under s. 430.705 or in a county in which an integrated, fixed-payment delivery program for Medicaid recipients who are 60 years of age or older or dually eligible for Medicare and Medicaid has been implemented under s. 409.912(5), the nursing home may request a reduction in the percentage of annual patient days used by residents who are eligible for care under Title XIX of the Social Security Act, which is a condition of the nursing home's certificate of need. The agency shall automatically grant the nursing home's request if the reduction is not more than 15 percent of the nursing home's annual Medicaid-patient-days condition. A nursing home may submit only one request every 2 years for an automatic reduction. A requesting nursing home must notify the agency in writing at least 60 days in advance of its intent to reduce its annual Medicaid-patient-days condition by not more than 15 percent. The agency must acknowledge the request in writing and must change its records to reflect the revised certificate-of-need condition. This paragraph expires June 30, 2011.~~

Section 4. Subsection (1) of section 408.0435, Florida Statutes, is amended to read:

408.0435 Moratorium on nursing home certificates of need.—

(1) Notwithstanding the establishment of need as provided

for in this chapter, a certificate of need for additional community nursing home beds may not be approved by the agency until Medicaid managed care is implemented statewide pursuant to ss. 409.961-409.985 or October 1, 2016, whichever is earlier ~~July 1, 2011~~.

Section 5. Sections 409.016 through 409.803, Florida Statutes, are designated as part I of chapter 409, Florida Statutes, and entitled "SOCIAL AND ECONOMIC ASSISTANCE."

Section 6. Sections 409.810 through 409.821, Florida Statutes, are designated as part II of chapter 409, Florida Statutes, and entitled "KIDCARE."

Section 7. Sections 409.901 through 409.9205, Florida Statutes, are designated as part III of chapter 409, Florida Statutes, and entitled "MEDICAID."

Section 8. Section 409.9021, Florida Statutes, is amended to read:

409.9021 Forfeiture of eligibility agreement.—As a condition of Medicaid eligibility, subject to federal approval, a Medicaid applicant shall agree in writing to forfeit all entitlements to any goods or services provided through the Medicaid program for the next 10 years if he or she has been found to have committed Medicaid fraud, through judicial or administrative determination~~, two times in a period of 5 years~~. This provision applies only to the Medicaid recipient found to have committed or participated in Medicaid ~~the~~ fraud and does not apply to any family member of the recipient who was not involved in the fraud.

Section 9. Subsections (2) and (4) and paragraph (c) of

subsection (5) of section 409.905, Florida Statutes, are amended, and paragraph (g) is added to subsection (5), to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.—The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and ~~provide treatment to correct or ameliorate these problems and conditions. These services include~~ all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(4) HOME HEALTH CARE SERVICES.—The agency shall pay for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home. An entity that provides such services must ~~pursuant to this subsection shall~~ be licensed under part III of chapter 400. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility.

(a) ~~In providing home health care services,~~ The agency shall ~~may~~ require prior authorization of home health services ~~care~~ based on diagnosis, utilization rates, and ~~or~~ billing rates. ~~The agency shall require prior authorization for visits for home health services that are not associated with a skilled nursing visit when the home health agency billing rates exceed the state average by 50 percent or more.~~ The home health agency must submit the recipient's plan of care and documentation that supports the recipient's diagnosis to the agency when requesting prior authorization.

(b) The agency shall implement a comprehensive utilization management program ~~that requires prior authorization~~ of all private duty nursing services, an individualized treatment plan that includes information about medication and treatment orders, treatment goals, methods of care to be used, and plans for care coordination by nurses and other health professionals. The utilization management program must ~~shall~~ also include a process for periodically reviewing the ongoing use of private duty

nursing services. The assessment of need shall be based on a child's condition;~~,~~ family support and care supplements;~~,~~ a family's ability to provide care;~~, and~~ a family's and child's schedule regarding work, school, sleep, and care for other family dependents; and a determination of the medical necessity for private duty nursing instead of other more cost-effective in-home services. When implemented, the private duty nursing utilization management program shall replace the current authorization program used by the agency ~~for Health Care Administration~~ and the Children's Medical Services program of the Department of Health. The agency may competitively bid ~~on~~ a contract to select a qualified organization to provide utilization management of private duty nursing services. The agency may ~~is authorized to~~ seek federal waivers to implement this initiative.

(c) The agency may not pay for home health services unless the services are medically necessary and:

1. The services are ordered by a physician.

2. The written prescription for the services is signed and dated by the recipient's physician before the development of a plan of care and before any request requiring prior authorization.

3. The physician ordering the services is not employed, under contract with, or otherwise affiliated with the home health agency rendering the services. However, this subparagraph does not apply to a home health agency affiliated with a retirement community, of which the parent corporation or a related legal entity owns a rural health clinic certified under

42 C.F.R. part 491, subpart A, ss. 1-11, a nursing home licensed under part II of chapter 400, or an apartment or single-family home for independent living. For purposes of this subparagraph, the agency may, on a case-by-case basis, provide an exception for medically fragile children who are younger than 21 years of age.

4. The physician ordering the services has examined the recipient within the 30 days preceding the initial request for the services and biannually thereafter.

5. The written prescription for the services includes the recipient's acute or chronic medical condition or diagnosis, the home health service required, and, for skilled nursing services, the frequency and duration of the services.

6. The national provider identifier, Medicaid identification number, or medical practitioner license number of the physician ordering the services is listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(c) The agency shall implement a methodology for establishing base reimbursement rates for each hospital based on

allowable costs, as defined by the agency. Rates shall be calculated annually and take effect July 1 of each year based on the most recent complete and accurate cost report submitted by each hospital. Adjustments may not be made to the rates after September 30 of the state fiscal year in which the rate takes effect. Errors in cost reporting or calculation of rates discovered after September 30 must be reconciled in a subsequent rate period. The agency may not make any adjustment to a hospital's reimbursement rate more than 5 years after a hospital is notified of an audited rate established by the agency. The requirement that the agency may not make any adjustment to a hospital's reimbursement rate more than 5 years after a hospital is notified of an audited rate established by the agency is remedial and shall apply to actions by providers involving Medicaid claims for hospital services. Hospital rates shall be subject to such limits or ceilings as may be established in law or described in the agency's hospital reimbursement plan. Specific exemptions to the limits or ceilings may be provided in the General Appropriations Act. ~~The agency shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:~~

~~1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995;~~

~~2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year; or~~

~~3. The hospital is located in a county that has six or~~

~~fewer general acute care hospitals, began offering obstetrical services on or after September 1999, and has submitted a request in writing to the agency for a rate adjustment after July 1, 2000, but before September 30, 2000, in which case such hospital's Medicaid inpatient per diem rate shall be adjusted to cost, effective July 1, 2002.~~

~~By October 1 of each year, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem rate to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Appropriations Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the General Appropriations Act to support the increase in cost as estimated by the agency.~~

(g) The agency shall develop a plan to convert inpatient hospital rates to a prospective payment system that categorizes each case into diagnosis-related groups (DRG) and assigns a payment weight based on the average resources used to treat Medicaid patients in that DRG. To the extent possible, the agency shall propose an adaptation of an existing prospective payment system, such as the one used by Medicare, and shall propose such adjustments as are necessary for the Medicaid population and to maintain budget neutrality for inpatient hospital expenditures. The agency shall submit the Medicaid DRG plan, identifying all steps necessary for the transition and any costs associated with plan implementation, to the Governor, the

President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2013.

Section 10. Paragraph (d) is added to subsection (13) of section 409.906, Florida Statutes, to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(13) HOME AND COMMUNITY-BASED SERVICES.—

(d) The agency shall request federal approval to develop a

system to require payment of premiums or other cost sharing by the parents of a child who is being served by a waiver under this subsection if the adjusted household income is greater than 100 percent of the federal poverty level. The amount of the premium or cost sharing shall be calculated using a sliding scale based on the size of the family, the amount of the parent's adjusted gross income, and the federal poverty guidelines. The premium and cost sharing system developed by the agency shall not adversely affect federal funding to the state. After the agency receives federal approval, the Department of Children and Family Services may collect income information from parents of children who will be affected by this paragraph. The agency shall prepare a report to include the estimated operational cost of implementing the premium and cost sharing system and the estimated revenues to be collected from parents of children in the waiver program. The report shall be delivered to the President of the Senate and the Speaker of the House of Representatives by June 30, 2012.

Section 11. Paragraphs (d) and (e) of subsection (5) of section 409.907, Florida Statutes, are amended to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program

or activity for which the provider receives payment from the agency.

(5) The agency:

(d) May enroll entities as Medicare crossover-only providers for payment and claims processing purposes only. The provider agreement shall:

1. Require that the provider be able to demonstrate to the satisfaction of the agency that the provider is an eligible Medicare provider and has a current provider agreement in place with the Centers for Medicare and Medicaid Services.

2. Require the provider to notify the agency immediately in writing upon being suspended or disenrolled as a Medicare provider. If the provider does not provide such notification within 5 business days after suspension or disenrollment, sanctions may be imposed pursuant to this chapter and the provider may be required to return funds paid to the provider during the period of time that the provider was suspended or disenrolled as a Medicare provider.

3. Require the applicant to submit an attestation, as approved by the agency, that the provider meets the requirements of Florida Medicaid provider enrollment criteria.

4. Require the applicant to submit fingerprints as required by the agency.

5.~~3.~~ Require that all records pertaining to health care services provided to each of the provider's recipients be kept for a minimum of 6 years. The agreement shall also require that records and any information relating to payments claimed by the provider for services under the agreement be delivered to the

agency or the Office of the Attorney General Medicaid Fraud Control Unit when requested. If a provider does not provide such records and information when requested, sanctions may be imposed pursuant to this chapter.

6.~~4.~~ Disclose that the agreement is for the purposes of paying and processing Medicare crossover claims only.

This paragraph pertains solely to Medicare crossover-only providers. In order to become a standard Medicaid provider, the requirements of this section and applicable rules must be met. This paragraph does not create an entitlement or obligation of the agency to enroll all Medicare providers that may be considered a Medicare crossover-only provider in the Medicaid program.

(e) Providers that are required to post a surety bond as part of the Medicaid enrollment process are excluded for enrollment under paragraph (d) and must complete a full Medicaid application. The agency may establish additional criteria to promote program integrity.

Section 12. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive

bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety

standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent may be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider target.

2. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, minimum data set, and care plan coordinators, staff development, and the staffing coordinator. The direct care subcomponent also includes medically necessary dental care, vision care, hearing care, and podiatric care.

3. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

4. On July 1 of each year, the agency shall report to the

Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

5. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 13. Paragraph (c) of subsection (1) of section 409.9081, Florida Statutes, is amended to read:

409.9081 Copayments.—

(1) The agency shall require, subject to federal regulations and limitations, each Medicaid recipient ~~to~~ pay at

the time of service a nominal copayment for the following Medicaid services:

(c) Hospital emergency department visits for nonemergency care: 5 percent of up to the first $300 of the Medicaid payment for emergency room services, not to exceed $15. The agency shall seek federal approval to require Medicaid recipients to pay $100 copayment for nonemergency services and care furnished in a hospital emergency department. Upon waiver approval, a Medicaid recipient who requests such services and care must pay a $100 copayment to the hospital for the nonemergency services and care provided in the hospital emergency department.

Section 14. Subsection (10) of section 409.911, Florida Statutes, is amended to read:

409.911 Disproportionate share program.—Subject to specific allocations established within the General Appropriations Act and any limitations established pursuant to chapter 216, the agency shall distribute, pursuant to this section, moneys to hospitals providing a disproportionate share of Medicaid or charity care services by making quarterly Medicaid payments as required. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(10) The Agency for Health Care Administration shall create a Medicaid Low-Income Pool Council by July 1, 2006. The Low-Income Pool Council shall consist of 24 members, including 2 members appointed by the President of the Senate, 2 members appointed by the Speaker of the House of Representatives, 3

representatives of statutory teaching hospitals, 3 representatives of public hospitals, 3 representatives of nonprofit hospitals, 3 representatives of for-profit hospitals, 2 representatives of rural hospitals, 2 representatives of units of local government which contribute funding, 1 representative of family practice teaching hospitals, 1 representative of federally qualified health centers, 1 representative from the Department of Health, and 1 nonvoting representative of the Agency for Health Care Administration who shall serve as chair of the council. Except for a full-time employee of a public entity, an individual who qualifies as a lobbyist under s. 11.045 or s. 112.3215 may not serve as a member of the council. Of the members appointed by the Senate President, only one shall be a physician. Of the members appointed by the Speaker of the House of Representatives, only one shall be a physician. The physician member appointed by the Senate President and the physician member appointed by the Speaker of the House of Representatives must be physicians who routinely take calls in a trauma center, as defined in s. 395.4001, or a hospital emergency department. The council shall:

(a) Make recommendations on the financing of the low-income pool and the disproportionate share hospital program and the distribution of their funds.

(b) Advise the Agency for Health Care Administration on the development of the low-income pool plan required by the federal Centers for Medicare and Medicaid Services pursuant to the Medicaid reform waiver.

(c) Advise the Agency for Health Care Administration on

the distribution of hospital funds used to adjust inpatient hospital rates, rebase rates, or otherwise exempt hospitals from reimbursement limits as financed by intergovernmental transfers.

(d) Submit its findings and recommendations to the Governor and the Legislature no later than February 1 of each year.

This subsection expires October 1, 2014.

Section 15. Subsection (4) of section 409.91195, Florida Statutes, is amended to read:

409.91195 Medicaid Pharmaceutical and Therapeutics Committee.—There is created a Medicaid Pharmaceutical and Therapeutics Committee within the agency for the purpose of developing a Medicaid preferred drug list.

(4) Upon recommendation of the committee, the agency shall adopt a preferred drug list as described in s. 409.912(37) ~~(39)~~. To the extent feasible, the committee shall review all drug classes included on the preferred drug list every 12 months, and may recommend additions to and deletions from the preferred drug list, such that the preferred drug list provides for medically appropriate drug therapies for Medicaid patients which achieve cost savings contained in the General Appropriations Act.

Section 16. Subsection (1) of section 409.91196, Florida Statutes, is amended to read:

409.91196 Supplemental rebate agreements; public records and public meetings exemption.—

(1) The rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebate, and other trade secrets as

defined in s. 688.002 that the agency has identified for use in negotiations, held by the Agency for Health Care Administration under s. 409.912(37)~~(39)~~(a)7. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 17. Section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify

trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history,

previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are ~~shall~~ not ~~be~~ entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(1) The agency shall work with the Department of Children and Family Services to ensure access of children and families in the child protection system to needed and appropriate mental health and substance abuse services. This subsection expires October 1, 2014.

(2) The agency may enter into agreements with appropriate agents of other state agencies or of any agency of the Federal Government and accept such duties in respect to social welfare or public aid as may be necessary to implement the provisions of Title XIX of the Social Security Act and ss. 409.901-409.920. This subsection expires October 1, 2016.

(3) The agency may contract with health maintenance organizations certified pursuant to part I of chapter 641 for the provision of services to recipients. This subsection expires October 1, 2014.

(4) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county health department, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225. This paragraph expires October 1, 2014.

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such entity must be licensed under chapter 624, chapter 636, or chapter 641, or authorized under paragraph (c) or paragraph (d), and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Family Services shall approve provisions of procurements related to children in the department's care or custody before

enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. Except as provided in subparagraph 5. ~~8.~~, and except in counties where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211, the agency shall seek federal approval to contract with a single entity meeting these requirements to provide comprehensive behavioral health care services to all Medicaid recipients not enrolled in a Medicaid managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in an AHCA area. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and are subject to this paragraph. Each entity must offer a sufficient choice of providers in its network to ensure recipient access to care and the opportunity to select a provider with whom they are satisfied. The network shall include all public mental health hospitals. To ensure unimpaired access to behavioral health care services by Medicaid recipients, all contracts issued pursuant to this paragraph must

require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations and capitated provider service networks, to be expended for the provision of behavioral health care services. If the managed care plan expends less than 80 percent of the capitation paid for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the plan with a certification letter indicating the amount of capitation paid during each calendar year for behavioral health care services pursuant to this section. The agency may reimburse for substance abuse treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. ~~By January 1, 2001,~~ The agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance abuse treatment services.

~~2. By July 1, 2003, the agency and the Department of Children and Family Services shall execute a written agreement that requires collaboration and joint development of all policy, budgets, procurement documents, contracts, and monitoring plans that have an impact on the state and Medicaid community mental health and targeted case management programs.~~

2.~~3.~~ Except as provided in subparagraph 5. ~~8., by July 1, 2006~~, the agency and the Department of Children and Family Services shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient

and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan to provide comprehensive behavioral health services to all recipients who are not enrolled in a Medicaid health maintenance organization, a provider service network authorized under paragraph (d), or a Medicaid capitated managed care plan authorized under s. 409.91211. The agency may contract with more than one comprehensive behavioral health provider to provide care to recipients who are not enrolled in a Medicaid capitated managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in AHCA areas where the eligible population exceeds 150,000. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations are eligible to compete. Managed care plans contracting with the agency under subsection (3) or paragraph (d), shall provide and receive payment for the same comprehensive behavioral health benefits as

provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts must be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-effectiveness of the provision of quality mental health services through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. Of the recipients in area 11 who are assigned to MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.

~~4. By October 1, 2003, the agency and the department shall submit a plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides for the full implementation of capitated prepaid behavioral health care in all areas of the state.~~

~~a. Implementation shall begin in 2003 in those AHCA areas of the state where the agency is able to establish sufficient capitation rates.~~

~~b. If the agency determines that the proposed capitation rate in any area is insufficient to provide appropriate services, the agency may adjust the capitation rate to ensure that care will be available. The agency and the department may use existing general revenue to address any additional required~~

~~match but may not over-obligate existing funds on an annualized basis.~~

~~c. Subject to any limitations provided in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures that allow for certification of local and state funds.~~

3.~~5.~~ Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Family Services residential program approved as a Medicaid behavioral health overlay services provider may not be included in a behavioral health care prepaid health plan or any other Medicaid managed care plan pursuant to this paragraph.

~~6. In converting to a prepaid system of delivery, the agency shall in its procurement document require an entity providing only comprehensive behavioral health care services to prevent the displacement of indigent care patients by enrollees in the Medicaid prepaid health plan providing behavioral health care services from facilities receiving state funding to provide indigent behavioral health care, to facilities licensed under chapter 395 which do not receive state funding for indigent behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.~~

4.~~7.~~ Traditional community mental health providers under contract with the Department of Children and Family Services pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Family

Services in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

5.~~8.~~ All Medicaid-eligible children, except children in area 1 and children in Highlands County, Hardee County, Polk County, or Manatee County of area 6, that are open for child welfare services in the statewide automated child welfare information ~~HomeSafeNet~~ system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies through a single agency or formal agreements among several agencies. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Family Services. The agency may seek federal waivers to implement this initiative. Medicaid-eligible children whose cases are open for child welfare services in the statewide automated child welfare information ~~HomeSafeNet~~ system and who reside in AHCA area 10 shall be enrolled in a capitated provider service network or other capitated managed care plan, which, in coordination with available community-based care providers specified in s. 409.1671, shall provide sufficient medical, developmental, and behavioral health services to meet the needs of these children ~~are exempt from the specialty prepaid plan upon the development of a service delivery mechanism for children who reside in area~~

~~10 as specified in s. 409.91211(3)(dd)~~.

This paragraph expires October 1, 2014.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. A federally qualified health center or an entity that is owned by one or more federally qualified health centers and is reimbursed by the agency on a prepaid basis is exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet the appropriate requirements governing financial reserve, quality assurance, and patients' rights established by the agency. This paragraph expires October 1, 2014.

(d)1. A provider service network, which may be reimbursed on a fee-for-service or prepaid basis. Prepaid provider service networks shall receive per-member, per-month payments. A provider service network that does not choose to be a prepaid plan shall receive fee-for-service rates with a shared savings settlement. The fee-for-service option shall be available to a provider service network only for the first 2 years of the plan's operation or until the contract year beginning September 1, 2014, whichever is later. The agency shall annually conduct cost reconciliations to determine the amount of cost savings achieved by fee-for-service provider service networks for the dates of service in the period being reconciled. Only payments

for covered services for dates of service within the reconciliation period and paid within 6 months after the last date of service in the reconciliation period shall be included. The agency shall perform the necessary adjustments for the inclusion of claims incurred but not reported within the reconciliation for claims that could be received and paid by the agency after the 6-month claims processing time lag. The agency shall provide the results of the reconciliations to the fee-for-service provider service networks within 45 days after the end of the reconciliation period. The fee-for-service provider service networks shall review and provide written comments or a letter of concurrence to the agency within 45 days after receipt of the reconciliation results. This reconciliation shall be considered final.

2. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency.

3. Medicaid recipients assigned to a provider service network shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. This subparagraph expires October 1, 2014. ~~Any contract previously awarded to a provider service network operated by a hospital pursuant to this subsection shall remain in effect for a period of 3 years~~

~~following the current contract expiration date, regardless of any contractual provisions to the contrary.~~

4. A provider service network is a network established or organized and operated by a health care provider, or group of affiliated health care providers, including minority physician networks and emergency room diversion programs that meet the requirements of s. 409.91211, which provides a substantial proportion of the health care items and services under a contract directly through the provider or affiliated group of providers and may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians, by other health professionals, or through the institutions. The health care providers must have a controlling interest in the governing body of the provider service network organization.

(e) An entity that provides only comprehensive behavioral health care services to certain Medicaid recipients through an administrative services organization agreement. Such an entity must possess the clinical systems and operational competence to provide comprehensive health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. Any contract awarded under this paragraph must be competitively procured. The agency must ensure that Medicaid recipients have available the choice of at least two managed

care plans for their behavioral health care services. This paragraph expires October 1, 2014.

~~(f) An entity that provides in-home physician services to test the cost-effectiveness of enhanced home-based medical care to Medicaid recipients with degenerative neurological diseases and other diseases or disabling conditions associated with high costs to Medicaid. The program shall be designed to serve very disabled persons and to reduce Medicaid reimbursed costs for inpatient, outpatient, and emergency department services. The agency shall contract with vendors on a risk-sharing basis.~~

~~(g) Children's provider networks that provide care coordination and care management for Medicaid-eligible pediatric patients, primary care, authorization of specialty care, and other urgent and emergency care through organized providers designed to service Medicaid eligibles under age 18 and pediatric emergency departments' diversion programs. The networks shall provide after-hour operations, including evening and weekend hours, to promote, when appropriate, the use of the children's networks rather than hospital emergency departments.~~

(f)~~(h)~~ An entity authorized in s. 430.205 to contract with the agency and the Department of Elderly Affairs to provide health care and social services on a prepaid or fixed-sum basis to elderly recipients. Such prepaid health care services entities are exempt from the provisions of part I of chapter 641 for the first 3 years of operation. An entity recognized under this paragraph that demonstrates to the satisfaction of the Office of Insurance Regulation that it is backed by the full faith and credit of one or more counties in which it operates

may be exempted from s. 641.225. This paragraph expires October 1, 2013.

(g) ~~(i)~~ A Children's Medical Services Network, as defined in s. 391.021. This paragraph expires October 1, 2014.

~~(5) The Agency for Health Care Administration, in partnership with the Department of Elderly Affairs, shall create an integrated, fixed-payment delivery program for Medicaid recipients who are 60 years of age or older or dually eligible for Medicare and Medicaid. The Agency for Health Care Administration shall implement the integrated program initially on a pilot basis in two areas of the state. The pilot areas shall be Area 7 and Area 11 of the Agency for Health Care Administration. Enrollment in the pilot areas shall be on a voluntary basis and in accordance with approved federal waivers and this section. The agency and its program contractors and providers shall not enroll any individual in the integrated program because the individual or the person legally responsible for the individual fails to choose to enroll in the integrated program. Enrollment in the integrated program shall be exclusively by affirmative choice of the eligible individual or by the person legally responsible for the individual. The integrated program must transfer all Medicaid services for eligible elderly individuals who choose to participate into an integrated-care management model designed to serve Medicaid recipients in the community. The integrated program must combine all funding for Medicaid services provided to individuals who are 60 years of age or older or dually eligible for Medicare and Medicaid into the integrated program, including funds for~~

~~Medicaid home and community-based waiver services; all Medicaid services authorized in ss. 409.905 and 409.906, excluding funds for Medicaid nursing home services unless the agency is able to demonstrate how the integration of the funds will improve coordinated care for these services in a less costly manner; and Medicare coinsurance and deductibles for persons dually eligible for Medicaid and Medicare as prescribed in s. 409.908(13).~~

~~(a) Individuals who are 60 years of age or older or dually eligible for Medicare and Medicaid and enrolled in the developmental disabilities waiver program, the family and supported-living waiver program, the project AIDS care waiver program, the traumatic brain injury and spinal cord injury waiver program, the consumer-directed care waiver program, and the program of all-inclusive care for the elderly program, and residents of institutional care facilities for the developmentally disabled, must be excluded from the integrated program.~~

~~(b) Managed care entities who meet or exceed the agency's minimum standards are eligible to operate the integrated program. Entities eligible to participate include managed care organizations licensed under chapter 641, including entities eligible to participate in the nursing home diversion program, other qualified providers as defined in s. 430.703(7), community care for the elderly lead agencies, and other state-certified community service networks that meet comparable standards as defined by the agency, in consultation with the Department of Elderly Affairs and the Office of Insurance Regulation, to be financially solvent and able to take on financial risk for~~

~~managed care. Community service networks that are certified pursuant to the comparable standards defined by the agency are not required to be licensed under chapter 641. Managed care entities who operate the integrated program shall be subject to s. 408.7056. Eligible entities shall choose to serve enrollees who are dually eligible for Medicare and Medicaid, enrollees who are 60 years of age or older, or both.~~

~~(c) The agency must ensure that the capitation-rate-setting methodology for the integrated program is actuarially sound and reflects the intent to provide quality care in the least restrictive setting. The agency must also require integrated-program providers to develop a credentialing system for service providers and to contract with all Gold Seal nursing homes, where feasible, and exclude, where feasible, chronically poor-performing facilities and providers as defined by the agency. The integrated program must develop and maintain an informal provider grievance system that addresses provider payment and contract problems. The agency shall also establish a formal grievance system to address those issues that were not resolved through the informal grievance system. The integrated program must provide that if the recipient resides in a noncontracted residential facility licensed under chapter 400 or chapter 429 at the time of enrollment in the integrated program, the recipient must be permitted to continue to reside in the noncontracted facility as long as the recipient desires. The integrated program must also provide that, in the absence of a contract between the integrated-program provider and the residential facility licensed under chapter 400 or chapter 429,~~

~~current Medicaid rates must prevail. The integrated-program provider must ensure that electronic nursing home claims that contain sufficient information for processing are paid within 10 business days after receipt. Alternately, the integrated-program provider may establish a capitated payment mechanism to prospectively pay nursing homes at the beginning of each month. The agency and the Department of Elderly Affairs must jointly develop procedures to manage the services provided through the integrated program in order to ensure quality and recipient choice.~~

~~(d) The Office of Program Policy Analysis and Government Accountability, in consultation with the Auditor General, shall comprehensively evaluate the pilot project for the integrated, fixed-payment delivery program for Medicaid recipients created under this subsection. The evaluation shall begin as soon as Medicaid recipients are enrolled in the managed care pilot program plans and shall continue for 24 months thereafter. The evaluation must include assessments of each managed care plan in the integrated program with regard to cost savings; consumer education, choice, and access to services; coordination of care; and quality of care. The evaluation must describe administrative or legal barriers to the implementation and operation of the pilot program and include recommendations regarding statewide expansion of the pilot program. The office shall submit its evaluation report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 31, 2009.~~

~~(e) The agency may seek federal waivers or Medicaid state~~

~~plan amendments and adopt rules as necessary to administer the integrated program. The agency may implement the approved federal waivers and other provisions as specified in this subsection.~~

~~(f) The implementation of the integrated, fixed-payment delivery program created under this subsection is subject to an appropriation in the General Appropriations Act.~~

(5)~~(6)~~ The agency may contract with any public or private entity otherwise authorized by this section on a prepaid or fixed-sum basis for the provision of health care services to recipients. An entity may provide prepaid services to recipients, either directly or through arrangements with other entities, if each entity involved in providing services:

(a) Is organized primarily for the purpose of providing health care or other services of the type regularly offered to Medicaid recipients;

(b) Ensures that services meet the standards set by the agency for quality, appropriateness, and timeliness;

(c) Makes provisions satisfactory to the agency for insolvency protection and ensures that neither enrolled Medicaid recipients nor the agency will be liable for the debts of the entity;

(d) Submits to the agency, if a private entity, a financial plan that the agency finds to be fiscally sound and that provides for working capital in the form of cash or equivalent liquid assets excluding revenues from Medicaid premium payments equal to at least the first 3 months of operating expenses or $200,000, whichever is greater;

(e) Furnishes evidence satisfactory to the agency of adequate liability insurance coverage or an adequate plan of self-insurance to respond to claims for injuries arising out of the furnishing of health care;

(f) Provides, through contract or otherwise, for periodic review of its medical facilities and services, as required by the agency; and

(g) Provides organizational, operational, financial, and other information required by the agency.

This subsection expires October 1, 2014.

(6) ~~(7)~~ The agency may contract on a prepaid or fixed-sum basis with any health insurer that:

(a) Pays for health care services provided to enrolled Medicaid recipients in exchange for a premium payment paid by the agency;

(b) Assumes the underwriting risk; and

(c) Is organized and licensed under applicable provisions of the Florida Insurance Code and is currently in good standing with the Office of Insurance Regulation.

This subsection expires October 1, 2014.

(7) ~~(8)(a)~~ The agency may contract on a prepaid or fixed-sum basis with an exclusive provider organization to provide health care services to Medicaid recipients provided that the exclusive provider organization meets applicable managed care plan requirements in this section, ss. 409.9122, 409.9123, 409.9128, and 627.6472, and other applicable provisions of law.

This subsection expires October 1, 2014.

~~(b) For a period of no longer than 24 months after the effective date of this paragraph, when a member of an exclusive provider organization that is contracted by the agency to provide health care services to Medicaid recipients in rural areas without a health maintenance organization obtains services from a provider that participates in the Medicaid program in this state, the provider shall be paid in accordance with the appropriate fee schedule for services provided to eligible Medicaid recipients. The agency may seek waiver authority to implement this paragraph.~~

(8)~~(9)~~ The Agency for Health Care Administration may provide cost-effective purchasing of chiropractic services on a fee-for-service basis to Medicaid recipients through arrangements with a statewide chiropractic preferred provider organization incorporated in this state as a not-for-profit corporation. The agency shall ensure that the benefit limits and prior authorization requirements in the current Medicaid program shall apply to the services provided by the chiropractic preferred provider organization. This subsection expires October 1, 2014.

(9)~~(10)~~ The agency shall not contract on a prepaid or fixed-sum basis for Medicaid services with an entity which knows or reasonably should know that any officer, director, agent, managing employee, or owner of stock or beneficial interest in excess of 5 percent common or preferred stock, or the entity itself, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere, or guilty, to:

(a) Fraud;

(b) Violation of federal or state antitrust statutes, including those proscribing price fixing between competitors and the allocation of customers among competitors;

(c) Commission of a felony involving embezzlement, theft, forgery, income tax evasion, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(d) Any crime in any jurisdiction which directly relates to the provision of health services on a prepaid or fixed-sum basis.

This subsection expires October 1, 2014.

(10) ~~(11)~~ The agency, after notifying the Legislature, may apply for waivers of applicable federal laws and regulations as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the Medicaid program to the state and federal governments and shall implement such programs, after legislative approval, within a reasonable period of time after federal approval. These programs must be designed primarily to reduce the need for inpatient care, custodial care and other long-term or institutional care, and other high-cost services. Prior to seeking legislative approval of such a waiver as authorized by this subsection, the agency shall provide notice and an opportunity for public comment. Notice shall be provided to all persons who have made requests of the agency for advance notice and shall be published in the

Florida Administrative Weekly not less than 28 days prior to the intended action. This subsection expires October 1, 2016.

(11)~~(12)~~ The agency shall establish a postpayment utilization control program designed to identify recipients who may inappropriately overuse or underuse Medicaid services and shall provide methods to correct such misuse. This subsection expires October 1, 2014.

(12)~~(13)~~ The agency shall develop and provide coordinated systems of care for Medicaid recipients and may contract with public or private entities to develop and administer such systems of care among public and private health care providers in a given geographic area. This subsection expires October 1, 2014.

(13)~~(14)(a)~~ The agency shall operate or contract for the operation of utilization management and incentive systems designed to encourage cost-effective use of services and to eliminate services that are medically unnecessary. The agency shall track Medicaid provider prescription and billing patterns and evaluate them against Medicaid medical necessity criteria and coverage and limitation guidelines adopted by rule. Medical necessity determination requires that service be consistent with symptoms or confirmed diagnosis of illness or injury under treatment and not in excess of the patient's needs. The agency shall conduct reviews of provider exceptions to peer group norms and shall, using statistical methodologies, provider profiling, and analysis of billing patterns, detect and investigate abnormal or unusual increases in billing or payment of claims for Medicaid services and medically unnecessary provision of

services. Providers that demonstrate a pattern of submitting claims for medically unnecessary services shall be referred to the Medicaid program integrity unit for investigation. In its annual report, required in s. 409.913, the agency shall report on its efforts to control overutilization as described in this subsection ~~paragraph~~. This subsection expires October 1, 2014.

~~(b) The agency shall develop a procedure for determining whether health care providers and service vendors can provide the Medicaid program using a business case that demonstrates whether a particular good or service can offset the cost of providing the good or service in an alternative setting or through other means and therefore should receive a higher reimbursement. The business case must include, but need not be limited to:~~

~~1. A detailed description of the good or service to be provided, a description and analysis of the agency's current performance of the service, and a rationale documenting how providing the service in an alternative setting would be in the best interest of the state, the agency, and its clients.~~

~~2. A cost-benefit analysis documenting the estimated specific direct and indirect costs, savings, performance improvements, risks, and qualitative and quantitative benefits involved in or resulting from providing the service. The cost-benefit analysis must include a detailed plan and timeline identifying all actions that must be implemented to realize expected benefits. The Secretary of Health Care Administration shall verify that all costs, savings, and benefits are valid and achievable.~~

~~(c) If the agency determines that the increased reimbursement is cost-effective, the agency shall recommend a change in the reimbursement schedule for that particular good or service. If, within 12 months after implementing any rate change under this procedure, the agency determines that costs were not offset by the increased reimbursement schedule, the agency may revert to the former reimbursement schedule for the particular good or service.~~

(14) ~~(15)~~ (a) The agency shall operate the Comprehensive Assessment and Review for Long-Term Care Services (CARES) nursing facility preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals whose conditions require such care and to ensure that long-term care services are provided in the setting most appropriate to the needs of the person and in the most economical manner possible. The CARES program shall also ensure that individuals participating in Medicaid home and community-based waiver programs meet criteria for those programs, consistent with approved federal waivers.

(b) The agency shall operate the CARES program through an interagency agreement with the Department of Elderly Affairs. The agency, in consultation with the Department of Elderly Affairs, may contract for any function or activity of the CARES program, including any function or activity required by 42 C.F.R. part 483.20, relating to preadmission screening and resident review.

(c) Prior to making payment for nursing facility services for a Medicaid recipient, the agency must verify that the

nursing facility preadmission screening program has determined that the individual requires nursing facility care and that the individual cannot be safely served in community-based programs. The nursing facility preadmission screening program shall refer a Medicaid recipient to a community-based program if the individual could be safely served at a lower cost and the recipient chooses to participate in such program. For individuals whose nursing home stay is initially funded by Medicare and Medicare coverage is being terminated for lack of progress towards rehabilitation, CARES staff shall consult with the person making the determination of progress toward rehabilitation to ensure that the recipient is not being inappropriately disqualified from Medicare coverage. If, in their professional judgment, CARES staff believes that a Medicare beneficiary is still making progress toward rehabilitation, they may assist the Medicare beneficiary with an appeal of the disqualification from Medicare coverage. The use of CARES teams to review Medicare denials for coverage under this section is authorized only if it is determined that such reviews qualify for federal matching funds through Medicaid. The agency shall seek or amend federal waivers as necessary to implement this section.

(d) For the purpose of initiating immediate prescreening and diversion assistance for individuals residing in nursing homes and in order to make families aware of alternative long-term care resources so that they may choose a more cost-effective setting for long-term placement, CARES staff shall conduct an assessment and review of a sample of individuals

whose nursing home stay is expected to exceed 20 days, regardless of the initial funding source for the nursing home placement. CARES staff shall provide counseling and referral services to these individuals regarding choosing appropriate long-term care alternatives. This paragraph does not apply to continuing care facilities licensed under chapter 651 or to retirement communities that provide a combination of nursing home, independent living, and other long-term care services.

(e) By January 15 of each year, the agency shall submit a report to the Legislature describing the operations of the CARES program. The report must describe:

1. Rate of diversion to community alternative programs;

2. CARES program staffing needs to achieve additional diversions;

3. Reasons the program is unable to place individuals in less restrictive settings when such individuals desired such services and could have been served in such settings;

4. Barriers to appropriate placement, including barriers due to policies or operations of other agencies or state-funded programs; and

5. Statutory changes necessary to ensure that individuals in need of long-term care services receive care in the least restrictive environment.

(f) The Department of Elderly Affairs shall track individuals over time who are assessed under the CARES program and who are diverted from nursing home placement. By January 15 of each year, the department shall submit to the Legislature a longitudinal study of the individuals who are diverted from

nursing home placement. The study must include:

1. The demographic characteristics of the individuals assessed and diverted from nursing home placement, including, but not limited to, age, race, gender, frailty, caregiver status, living arrangements, and geographic location;

2. A summary of community services provided to individuals for 1 year after assessment and diversion;

3. A summary of inpatient hospital admissions for individuals who have been diverted; and

4. A summary of the length of time between diversion and subsequent entry into a nursing home or death.

This subsection expires October 1, 2013.

(15) ~~(16)~~ (a) The agency shall identify health care utilization and price patterns within the Medicaid program which are not cost-effective or medically appropriate and assess the effectiveness of new or alternate methods of providing and monitoring service, and may implement such methods as it considers appropriate. Such methods may include disease management initiatives, an integrated and systematic approach for managing the health care needs of recipients who are at risk of or diagnosed with a specific disease by using best practices, prevention strategies, clinical-practice improvement, clinical interventions and protocols, outcomes research, information technology, and other tools and resources to reduce overall costs and improve measurable outcomes.

(b) The responsibility of the agency under this subsection shall include the development of capabilities to identify actual

and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs.

1. The practice pattern identification program shall evaluate practitioner prescribing patterns based on national and regional practice guidelines, comparing practitioners to their peer groups. The agency and its Drug Utilization Review Board shall consult with the Department of Health and a panel of practicing health care professionals consisting of the following: the Speaker of the House of Representatives and the President of the Senate shall each appoint three physicians licensed under chapter 458 or chapter 459; and the Governor shall appoint two pharmacists licensed under chapter 465 and one dentist licensed under chapter 466 who is an oral surgeon. Terms of the panel members shall expire at the discretion of the appointing official. The advisory panel shall be responsible for evaluating treatment guidelines and recommending ways to incorporate their use in the practice pattern identification program. Practitioners who are prescribing inappropriately or inefficiently, as determined by the agency, may have their prescribing of certain drugs subject to prior authorization or may be terminated from all participation in the Medicaid program.

2. The agency shall also develop educational interventions designed to promote the proper use of medications by providers and beneficiaries.

3. The agency shall implement a pharmacy fraud, waste, and

abuse initiative that may include a surety bond or letter of credit requirement for participating pharmacies, enhanced provider auditing practices, the use of additional fraud and abuse software, recipient management programs for beneficiaries inappropriately using their benefits, and other steps that will eliminate provider and recipient fraud, waste, and abuse. The initiative shall address enforcement efforts to reduce the number and use of counterfeit prescriptions.

4. By September 30, 2002, the agency shall contract with an entity in the state to implement a wireless handheld clinical pharmacology drug information database for practitioners. The initiative shall be designed to enhance the agency's efforts to reduce fraud, abuse, and errors in the prescription drug benefit program and to otherwise further the intent of this paragraph.

5. By April 1, 2006, the agency shall contract with an entity to design a database of clinical utilization information or electronic medical records for Medicaid providers. This system must be web-based and allow providers to review on a real-time basis the utilization of Medicaid services, including, but not limited to, physician office visits, inpatient and outpatient hospitalizations, laboratory and pathology services, radiological and other imaging services, dental care, and patterns of dispensing prescription drugs in order to coordinate care and identify potential fraud and abuse.

6. The agency may apply for any federal waivers needed to administer this paragraph.

<u>This subsection expires October 1, 2014.</u>

(16)~~(17)~~ An entity contracting on a prepaid or fixed-sum basis shall meet the surplus requirements of s. 641.225. If an entity's surplus falls below an amount equal to the surplus requirements of s. 641.225, the agency shall prohibit the entity from engaging in marketing and preenrollment activities, shall cease to process new enrollments, and may not renew the entity's contract until the required balance is achieved. The requirements of this subsection do not apply:

(a) Where a public entity agrees to fund any deficit incurred by the contracting entity; or

(b) Where the entity's performance and obligations are guaranteed in writing by a guaranteeing organization which:

1. Has been in operation for at least 5 years and has assets in excess of $50 million; or

2. Submits a written guarantee acceptable to the agency which is irrevocable during the term of the contracting entity's contract with the agency and, upon termination of the contract, until the agency receives proof of satisfaction of all outstanding obligations incurred under the contract.

This subsection expires October 1, 2014.

(17)~~(18)~~(a) The agency may require an entity contracting on a prepaid or fixed-sum basis to establish a restricted insolvency protection account with a federally guaranteed financial institution licensed to do business in this state. The entity shall deposit into that account 5 percent of the capitation payments made by the agency each month until a maximum total of 2 percent of the total current contract amount

is reached. The restricted insolvency protection account may be drawn upon with the authorized signatures of two persons designated by the entity and two representatives of the agency. If the agency finds that the entity is insolvent, the agency may draw upon the account solely with the two authorized signatures of representatives of the agency, and the funds may be disbursed to meet financial obligations incurred by the entity under the prepaid contract. If the contract is terminated, expired, or not continued, the account balance must be released by the agency to the entity upon receipt of proof of satisfaction of all outstanding obligations incurred under this contract.

(b) The agency may waive the insolvency protection account requirement in writing when evidence is on file with the agency of adequate insolvency insurance and reinsurance that will protect enrollees if the entity becomes unable to meet its obligations.

(18) ~~(19)~~ An entity that contracts with the agency on a prepaid or fixed-sum basis for the provision of Medicaid services shall reimburse any hospital or physician that is outside the entity's authorized geographic service area as specified in its contract with the agency, and that provides services authorized by the entity to its members, at a rate negotiated with the hospital or physician for the provision of services or according to the lesser of the following:

(a) The usual and customary charges made to the general public by the hospital or physician; or

(b) The Florida Medicaid reimbursement rate established for the hospital or physician.

This subsection expires October 1, 2014.

(19)~~(20)~~ When a merger or acquisition of a Medicaid prepaid contractor has been approved by the Office of Insurance Regulation pursuant to s. 628.4615, the agency shall approve the assignment or transfer of the appropriate Medicaid prepaid contract upon request of the surviving entity of the merger or acquisition if the contractor and the other entity have been in good standing with the agency for the most recent 12-month period, unless the agency determines that the assignment or transfer would be detrimental to the Medicaid recipients or the Medicaid program. To be in good standing, an entity must not have failed accreditation or committed any material violation of the requirements of s. 641.52 and must meet the Medicaid contract requirements. For purposes of this section, a merger or acquisition means a change in controlling interest of an entity, including an asset or stock purchase. This subsection expires October 1, 2014.

(20)~~(21)~~ Any entity contracting with the agency pursuant to this section to provide health care services to Medicaid recipients is prohibited from engaging in any of the following practices or activities:

(a) Practices that are discriminatory, including, but not limited to, attempts to discourage participation on the basis of actual or perceived health status.

(b) Activities that could mislead or confuse recipients, or misrepresent the organization, its marketing representatives, or the agency. Violations of this paragraph include, but are not

limited to:

1. False or misleading claims that marketing representatives are employees or representatives of the state or county, or of anyone other than the entity or the organization by whom they are reimbursed.

2. False or misleading claims that the entity is recommended or endorsed by any state or county agency, or by any other organization which has not certified its endorsement in writing to the entity.

3. False or misleading claims that the state or county recommends that a Medicaid recipient enroll with an entity.

4. Claims that a Medicaid recipient will lose benefits under the Medicaid program, or any other health or welfare benefits to which the recipient is legally entitled, if the recipient does not enroll with the entity.

(c) Granting or offering of any monetary or other valuable consideration for enrollment, except as authorized by subsection (23) ~~(24)~~.

(d) Door-to-door solicitation of recipients who have not contacted the entity or who have not invited the entity to make a presentation.

(e) Solicitation of Medicaid recipients by marketing representatives stationed in state offices unless approved and supervised by the agency or its agent and approved by the affected state agency when solicitation occurs in an office of the state agency. The agency shall ensure that marketing representatives stationed in state offices shall market their managed care plans to Medicaid recipients only in designated

areas and in such a way as to not interfere with the recipients' activities in the state office.

(f) Enrollment of Medicaid recipients.

(21) ~~(22)~~ The agency may impose a fine for a violation of this section or the contract with the agency by a person or entity that is under contract with the agency. With respect to any nonwillful violation, such fine shall not exceed $2,500 per violation. In no event shall such fine exceed an aggregate amount of $10,000 for all nonwillful violations arising out of the same action. With respect to any knowing and willful violation of this section or the contract with the agency, the agency may impose a fine upon the entity in an amount not to exceed $20,000 for each such violation. In no event shall such fine exceed an aggregate amount of $100,000 for all knowing and willful violations arising out of the same action. This subsection expires October 1, 2014.

(22) ~~(23)~~ A health maintenance organization or a person or entity exempt from chapter 641 that is under contract with the agency for the provision of health care services to Medicaid recipients may not use or distribute marketing materials used to solicit Medicaid recipients, unless such materials have been approved by the agency. The provisions of this subsection do not apply to general advertising and marketing materials used by a health maintenance organization to solicit both non-Medicaid subscribers and Medicaid recipients. This subsection expires October 1, 2014.

(23) ~~(24)~~ Upon approval by the agency, health maintenance organizations and persons or entities exempt from chapter 641

that are under contract with the agency for the provision of health care services to Medicaid recipients may be permitted within the capitation rate to provide additional health benefits that the agency has found are of high quality, are practicably available, provide reasonable value to the recipient, and are provided at no additional cost to the state. This subsection expires October 1, 2014.

(24) ~~(25)~~ The agency shall utilize the statewide health maintenance organization complaint hotline for the purpose of investigating and resolving Medicaid and prepaid health plan complaints, maintaining a record of complaints and confirmed problems, and receiving disenrollment requests made by recipients. This subsection expires October 1, 2014.

(25) ~~(26)~~ The agency shall require the publication of the health maintenance organization's and the prepaid health plan's consumer services telephone numbers and the "800" telephone number of the statewide health maintenance organization complaint hotline on each Medicaid identification card issued by a health maintenance organization or prepaid health plan contracting with the agency to serve Medicaid recipients and on each subscriber handbook issued to a Medicaid recipient. This subsection expires October 1, 2014.

(26) ~~(27)~~ The agency shall establish a health care quality improvement system for those entities contracting with the agency pursuant to this section, incorporating all the standards and guidelines developed by the Medicaid Bureau of the Health Care Financing Administration as a part of the quality assurance reform initiative. The system shall include, but need not be

limited to, the following:

(a) Guidelines for internal quality assurance programs, including standards for:

1. Written quality assurance program descriptions.

2. Responsibilities of the governing body for monitoring, evaluating, and making improvements to care.

3. An active quality assurance committee.

4. Quality assurance program supervision.

5. Requiring the program to have adequate resources to effectively carry out its specified activities.

6. Provider participation in the quality assurance program.

7. Delegation of quality assurance program activities.

8. Credentialing and recredentialing.

9. Enrollee rights and responsibilities.

10. Availability and accessibility to services and care.

11. Ambulatory care facilities.

12. Accessibility and availability of medical records, as well as proper recordkeeping and process for record review.

13. Utilization review.

14. A continuity of care system.

15. Quality assurance program documentation.

16. Coordination of quality assurance activity with other management activity.

17. Delivering care to pregnant women and infants; to elderly and disabled recipients, especially those who are at risk of institutional placement; to persons with developmental disabilities; and to adults who have chronic, high-cost medical

conditions.

(b) Guidelines which require the entities to conduct quality-of-care studies which:

1. Target specific conditions and specific health service delivery issues for focused monitoring and evaluation.

2. Use clinical care standards or practice guidelines to objectively evaluate the care the entity delivers or fails to deliver for the targeted clinical conditions and health services delivery issues.

3. Use quality indicators derived from the clinical care standards or practice guidelines to screen and monitor care and services delivered.

(c) Guidelines for external quality review of each contractor which require: focused studies of patterns of care; individual care review in specific situations; and followup activities on previous pattern-of-care study findings and individual-care-review findings. In designing the external quality review function and determining how it is to operate as part of the state's overall quality improvement system, the agency shall construct its external quality review organization and entity contracts to address each of the following:

1. Delineating the role of the external quality review organization.

2. Length of the external quality review organization contract with the state.

3. Participation of the contracting entities in designing external quality review organization review activities.

4. Potential variation in the type of clinical conditions

and health services delivery issues to be studied at each plan.

5. Determining the number of focused pattern-of-care studies to be conducted for each plan.

6. Methods for implementing focused studies.

7. Individual care review.

8. Followup activities.

This subsection expires October 1, 2016.

(27) ~~(28)~~ In order to ensure that children receive health care services for which an entity has already been compensated, an entity contracting with the agency pursuant to this section shall achieve an annual Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Service screening rate of at least 60 percent for those recipients continuously enrolled for at least 8 months. The agency shall develop a method by which the EPSDT screening rate shall be calculated. For any entity which does not achieve the annual 60 percent rate, the entity must submit a corrective action plan for the agency's approval. If the entity does not meet the standard established in the corrective action plan during the specified timeframe, the agency is authorized to impose appropriate contract sanctions. At least annually, the agency shall publicly release the EPSDT Services screening rates of each entity it has contracted with on a prepaid basis to serve Medicaid recipients. This subsection expires October 1, 2014.

(28) ~~(29)~~ The agency shall perform enrollments and disenrollments for Medicaid recipients who are eligible for MediPass or managed care plans. Notwithstanding the prohibition

contained in paragraph (20)~~(21)~~(f), managed care plans may perform preenrollments of Medicaid recipients under the supervision of the agency or its agents. For the purposes of this section, the term "preenrollment" means the provision of marketing and educational materials to a Medicaid recipient and assistance in completing the application forms, but does not include actual enrollment into a managed care plan. An application for enrollment may not be deemed complete until the agency or its agent verifies that the recipient made an informed, voluntary choice. The agency, in cooperation with the Department of Children and Family Services, may test new marketing initiatives to inform Medicaid recipients about their managed care options at selected sites. The agency may contract with a third party to perform managed care plan and MediPass enrollment and disenrollment services for Medicaid recipients and may adopt rules to administer such services. The agency may adjust the capitation rate only to cover the costs of a third-party enrollment and disenrollment contract, and for agency supervision and management of the managed care plan enrollment and disenrollment contract. This subsection expires October 1, 2014.

(29)~~(30)~~ Any lists of providers made available to Medicaid recipients, MediPass enrollees, or managed care plan enrollees shall be arranged alphabetically showing the provider's name and specialty and, separately, by specialty in alphabetical order. This subsection expires October 1, 2014.

(30)~~(31)~~ The agency shall establish an enhanced managed care quality assurance oversight function, to include at least

the following components:

(a) At least quarterly analysis and followup, including sanctions as appropriate, of managed care participant utilization of services.

(b) At least quarterly analysis and followup, including sanctions as appropriate, of quality findings of the Medicaid peer review organization and other external quality assurance programs.

(c) At least quarterly analysis and followup, including sanctions as appropriate, of the fiscal viability of managed care plans.

(d) At least quarterly analysis and followup, including sanctions as appropriate, of managed care participant satisfaction and disenrollment surveys.

(e) The agency shall conduct regular and ongoing Medicaid recipient satisfaction surveys.

The analyses and followup activities conducted by the agency under its enhanced managed care quality assurance oversight function shall not duplicate the activities of accreditation reviewers for entities regulated under part III of chapter 641, but may include a review of the finding of such reviewers. This subsection expires October 1, 2014.

(31) ~~(32)~~ Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Department of Law Enforcement of all persons with ownership interest of 5 percent or more or executive management

responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.04. This subsection expires October 1, 2014.

(32)~~(33)~~ The agency shall, by rule, develop a process whereby a Medicaid managed care plan enrollee who wishes to enter hospice care may be disenrolled from the managed care plan within 24 hours after contacting the agency regarding such request. The agency rule shall include a methodology for the agency to recoup managed care plan payments on a pro rata basis if payment has been made for the enrollment month when disenrollment occurs. This subsection expires October 1, 2014.

(33)~~(34)~~ The agency and entities that contract with the agency to provide health care services to Medicaid recipients under this section or ss. 409.91211 and 409.9122 must comply with the provisions of s. 641.513 in providing emergency services and care to Medicaid recipients and MediPass recipients. Where feasible, safe, and cost-effective, the agency shall encourage hospitals, emergency medical services providers, and other public and private health care providers to work together in their local communities to enter into agreements or arrangements to ensure access to alternatives to emergency services and care for those Medicaid recipients who need nonemergent care. The agency shall coordinate with hospitals, emergency medical services providers, private health plans, capitated managed care networks as established in s. 409.91211, and other public and private health care providers to implement

the provisions of ss. 395.1041(7), 409.91255(3)(g), 627.6405, and 641.31097 to develop and implement emergency department diversion programs for Medicaid recipients. This subsection expires October 1, 2014.

(34)~~(35)~~ All entities providing health care services to Medicaid recipients shall make available, and encourage all pregnant women and mothers with infants to receive, and provide documentation in the medical records to reflect, the following:

(a) Healthy Start prenatal or infant screening.

(b) Healthy Start care coordination, when screening or other factors indicate need.

(c) Healthy Start enhanced services in accordance with the prenatal or infant screening results.

(d) Immunizations in accordance with recommendations of the Advisory Committee on Immunization Practices of the United States Public Health Service and the American Academy of Pediatrics, as appropriate.

(e) Counseling and services for family planning to all women and their partners.

(f) A scheduled postpartum visit for the purpose of voluntary family planning, to include discussion of all methods of contraception, as appropriate.

(g) Referral to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

This subsection expires October 1, 2014.

(35)~~(36)~~ Any entity that provides Medicaid prepaid health plan services shall ensure the appropriate coordination of

health care services with an assisted living facility in cases where a Medicaid recipient is both a member of the entity's prepaid health plan and a resident of the assisted living facility. If the entity is at risk for Medicaid targeted case management and behavioral health services, the entity shall inform the assisted living facility of the procedures to follow should an emergent condition arise. This subsection expires October 1, 2014.

~~(37) The agency may seek and implement federal waivers necessary to provide for cost-effective purchasing of home health services, private duty nursing services, transportation, independent laboratory services, and durable medical equipment and supplies through competitive bidding pursuant to s. 287.057. The agency may request appropriate waivers from the federal Health Care Financing Administration in order to competitively bid such services. The agency may exclude providers not selected through the bidding process from the Medicaid provider network.~~

(36)~~(38)~~ The agency shall enter into agreements with not-for-profit organizations based in this state for the purpose of providing vision screening. This subsection expires October 1, 2014.

(37)~~(39)~~(a) The agency shall implement a Medicaid prescribed-drug spending-control program that includes the following components:

1. A Medicaid preferred drug list, which shall be a listing of cost-effective therapeutic options recommended by the Medicaid Pharmacy and Therapeutics Committee established pursuant to s. 409.91195 and adopted by the agency for each

therapeutic class on the preferred drug list. At the discretion of the committee, and when feasible, the preferred drug list should include at least two products in a therapeutic class. The agency may post the preferred drug list and updates to the preferred drug list on an Internet website without following the rulemaking procedures of chapter 120. Antiretroviral agents are excluded from the preferred drug list. The agency shall also limit the amount of a prescribed drug dispensed to no more than a 34-day supply unless the drug products' smallest marketed package is greater than a 34-day supply, or the drug is determined by the agency to be a maintenance drug in which case a 100-day maximum supply may be authorized. The agency is authorized to seek any federal waivers necessary to implement these cost-control programs and to continue participation in the federal Medicaid rebate program, or alternatively to negotiate state-only manufacturer rebates. The agency may adopt rules to implement this subparagraph. The agency shall continue to provide unlimited contraceptive drugs and items. The agency must establish procedures to ensure that:

a. There is a response to a request for prior consultation by telephone or other telecommunication device within 24 hours after receipt of a request for prior consultation; and

b. A 72-hour supply of the drug prescribed is provided in an emergency or when the agency does not provide a response within 24 hours as required by sub-subparagraph a.

2. Reimbursement to pharmacies for Medicaid prescribed drugs shall be set at the lesser of: the average wholesale price (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC)

plus 4.75 percent, the federal upper limit (FUL), the state maximum allowable cost (SMAC), or the usual and customary (UAC) charge billed by the provider.

3. The agency shall develop and implement a process for managing the drug therapies of Medicaid recipients who are using significant numbers of prescribed drugs each month. The management process may include, but is not limited to, comprehensive, physician-directed medical-record reviews, claims analyses, and case evaluations to determine the medical necessity and appropriateness of a patient's treatment plan and drug therapies. The agency may contract with a private organization to provide drug-program-management services. The Medicaid drug benefit management program shall include initiatives to manage drug therapies for HIV/AIDS patients, patients using 20 or more unique prescriptions in a 180-day period, and the top 1,000 patients in annual spending. The agency shall enroll any Medicaid recipient in the drug benefit management program if he or she meets the specifications of this provision and is not enrolled in a Medicaid health maintenance organization.

4. The agency may limit the size of its pharmacy network based on need, competitive bidding, price negotiations, credentialing, or similar criteria. The agency shall give special consideration to rural areas in determining the size and location of pharmacies included in the Medicaid pharmacy network. A pharmacy credentialing process may include criteria such as a pharmacy's full-service status, location, size, patient educational programs, patient consultation, disease

management services, and other characteristics. The agency may impose a moratorium on Medicaid pharmacy enrollment when it is determined that it has a sufficient number of Medicaid-participating providers. The agency must allow dispensing practitioners to participate as a part of the Medicaid pharmacy network regardless of the practitioner's proximity to any other entity that is dispensing prescription drugs under the Medicaid program. A dispensing practitioner must meet all credentialing requirements applicable to his or her practice, as determined by the agency.

5. The agency shall develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The agency shall require the use of standardized counterfeit-proof prescription pads by Medicaid-participating prescribers or prescribers who write prescriptions for Medicaid recipients. The agency may implement the program in targeted geographic areas or statewide.

6. The agency may enter into arrangements that require manufacturers of generic drugs prescribed to Medicaid recipients to provide rebates of at least 15.1 percent of the average manufacturer price for the manufacturer's generic products. These arrangements shall require that if a generic-drug manufacturer pays federal rebates for Medicaid-reimbursed drugs at a level below 15.1 percent, the manufacturer must provide a supplemental rebate to the state in an amount necessary to achieve a 15.1-percent rebate level.

7. The agency may establish a preferred drug list as

described in this subsection, and, pursuant to the establishment of such preferred drug list, it is authorized to negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act and at no less than 14 percent of the average manufacturer price as defined in 42 U.S.C. s. 1936 on the last day of a quarter unless the federal or supplemental rebate, or both, equals or exceeds 29 percent. There is no upper limit on the supplemental rebates the agency may negotiate. The agency may determine that specific products, brand-name or generic, are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage will guarantee a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred drug list. However, a pharmaceutical manufacturer is not guaranteed placement on the preferred drug list by simply paying the minimum supplemental rebate. Agency decisions will be made on the clinical efficacy of a drug and recommendations of the Medicaid Pharmaceutical and Therapeutics Committee, as well as the price of competing products minus federal and state rebates. The agency is authorized to contract with an outside agency or contractor to conduct negotiations for supplemental rebates. For the purposes of this section, the term "supplemental rebates" means cash rebates. Effective July 1, 2004, value-added programs as a substitution for supplemental rebates are prohibited. The agency is authorized to seek any federal waivers to implement this initiative.

8. The Agency for Health Care Administration shall expand

home delivery of pharmacy products. To assist Medicaid patients in securing their prescriptions and reduce program costs, the agency shall expand its current mail-order-pharmacy diabetes-supply program to include all generic and brand-name drugs used by Medicaid patients with diabetes. Medicaid recipients in the current program may obtain nondiabetes drugs on a voluntary basis. This initiative is limited to the geographic area covered by the current contract. The agency may seek and implement any federal waivers necessary to implement this subparagraph.

9. The agency shall limit to one dose per month any drug prescribed to treat erectile dysfunction.

10.a. The agency may implement a Medicaid behavioral drug management system. The agency may contract with a vendor that has experience in operating behavioral drug management systems to implement this program. The agency is authorized to seek federal waivers to implement this program.

b. The agency, in conjunction with the Department of Children and Family Services, may implement the Medicaid behavioral drug management system that is designed to improve the quality of care and behavioral health prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid behavioral drugs. The program may include the following elements:

(I) Provide for the development and adoption of best practice guidelines for behavioral health-related drugs such as antipsychotics, antidepressants, and medications for treating

bipolar disorders and other behavioral conditions; translate them into practice; review behavioral health prescribers and compare their prescribing patterns to a number of indicators that are based on national standards; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid beneficiaries who are outliers in their use of behavioral health drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of behavioral health drugs.

(IV) Alert prescribers to patients who fail to refill prescriptions in a timely fashion, are prescribed multiple same-class behavioral health drugs, and may have other potential medication problems.

(V) Track spending trends for behavioral health drugs and deviation from best practice guidelines.

(VI) Use educational and technological approaches to promote best practices, educate consumers, and train prescribers in the use of practice guidelines.

(VII) Disseminate electronic and published materials.

(VIII) Hold statewide and regional conferences.

(IX) Implement a disease management program with a model quality-based medication component for severely mentally ill individuals and emotionally disturbed children who are high users of care.

11.a. The agency shall implement a Medicaid prescription drug management system. The agency may contract with a vendor that has experience in operating prescription drug management systems in order to implement this system. Any management system that is implemented in accordance with this subparagraph must rely on cooperation between physicians and pharmacists to determine appropriate practice patterns and clinical guidelines to improve the prescribing, dispensing, and use of drugs in the Medicaid program. The agency may seek federal waivers to implement this program.

b. The drug management system must be designed to improve the quality of care and prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid prescription drugs. The program must:

(I) Provide for the development and adoption of best practice guidelines for the prescribing and use of drugs in the Medicaid program, including translating best practice guidelines into practice; reviewing prescriber patterns and comparing them to indicators that are based on national standards and practice patterns of clinical peers in their community, statewide, and nationally; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid recipients who are outliers in their

use of a single or multiple prescription drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of prescription drugs.

(IV) Alert prescribers to patients who fail to refill prescriptions in a timely fashion, are prescribed multiple drugs that may be redundant or contraindicated, or may have other potential medication problems.

(V) Track spending trends for prescription drugs and deviation from best practice guidelines.

(VI) Use educational and technological approaches to promote best practices, educate consumers, and train prescribers in the use of practice guidelines.

(VII) Disseminate electronic and published materials.

(VIII) Hold statewide and regional conferences.

(IX) Implement disease management programs in cooperation with physicians and pharmacists, along with a model quality-based medication component for individuals having chronic medical conditions.

12. The agency is authorized to contract for drug rebate administration, including, but not limited to, calculating rebate amounts, invoicing manufacturers, negotiating disputes with manufacturers, and maintaining a database of rebate collections.

13. The agency may specify the preferred daily dosing form or strength for the purpose of promoting best practices with regard to the prescribing of certain drugs as specified in the General Appropriations Act and ensuring cost-effective

prescribing practices.

14. The agency may require prior authorization for Medicaid-covered prescribed drugs. The agency may, but is not required to, prior-authorize the use of a product:

a. For an indication not approved in labeling;

b. To comply with certain clinical guidelines; or

c. If the product has the potential for overuse, misuse, or abuse.

The agency may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug. The agency may post prior authorization criteria and protocol and updates to the list of drugs that are subject to prior authorization on an Internet website without amending its rule or engaging in additional rulemaking.

15. The agency, in conjunction with the Pharmaceutical and Therapeutics Committee, may require age-related prior authorizations for certain prescribed drugs. The agency may preauthorize the use of a drug for a recipient who may not meet the age requirement or may exceed the length of therapy for use of this product as recommended by the manufacturer and approved by the Food and Drug Administration. Prior authorization may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug.

16. The agency shall implement a step-therapy prior authorization approval process for medications excluded from the preferred drug list. Medications listed on the preferred drug

list must be used within the previous 12 months prior to the alternative medications that are not listed. The step-therapy prior authorization may require the prescriber to use the medications of a similar drug class or for a similar medical indication unless contraindicated in the Food and Drug Administration labeling. The trial period between the specified steps may vary according to the medical indication. The step-therapy approval process shall be developed in accordance with the committee as stated in s. 409.91195(7) and (8). A drug product may be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides the agency with additional written medical or clinical documentation that the product is medically necessary because:

a. There is not a drug on the preferred drug list to treat the disease or medical condition which is an acceptable clinical alternative;

b. The alternatives have been ineffective in the treatment of the beneficiary's disease; or

c. Based on historic evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses have been ineffective.

The agency shall work with the physician to determine the best alternative for the patient. The agency may adopt rules waiving the requirements for written clinical documentation for specific drugs in limited clinical situations.

17. The agency shall implement a return and reuse program for drugs dispensed by pharmacies to institutional recipients,

which includes payment of a $5 restocking fee for the implementation and operation of the program. The return and reuse program shall be implemented electronically and in a manner that promotes efficiency. The program must permit a pharmacy to exclude drugs from the program if it is not practical or cost-effective for the drug to be included and must provide for the return to inventory of drugs that cannot be credited or returned in a cost-effective manner. The agency shall determine if the program has reduced the amount of Medicaid prescription drugs which are destroyed on an annual basis and if there are additional ways to ensure more prescription drugs are not destroyed which could safely be reused. The agency's conclusion and recommendations shall be reported to the Legislature by December 1, 2005.

(b) The agency shall implement this subsection to the extent that funds are appropriated to administer the Medicaid prescribed-drug spending-control program. The agency may contract all or any part of this program to private organizations.

(c) The agency shall submit quarterly reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives which must include, but need not be limited to, the progress made in implementing this subsection and its effect on Medicaid prescribed-drug expenditures.

(38) ~~(40)~~ Notwithstanding the provisions of chapter 287, the agency may, at its discretion, renew a contract or contracts for fiscal intermediary services one or more times for such periods as the agency may decide; however, all such renewals may

not combine to exceed a total period longer than the term of the original contract.

(39) ~~(41)~~ The agency shall provide for the development of a demonstration project by establishment in Miami-Dade County of a long-term-care facility licensed pursuant to chapter 395 to improve access to health care for a predominantly minority, medically underserved, and medically complex population and to evaluate alternatives to nursing home care and general acute care for such population. Such project is to be located in a health care condominium and colocated with licensed facilities providing a continuum of care. The establishment of this project is not subject to the provisions of s. 408.036 or s. 408.039. This subsection expires October 1, 2013.

(40) ~~(42)~~ The agency shall develop and implement a utilization management program for Medicaid-eligible recipients for the management of occupational, physical, respiratory, and speech therapies. The agency shall establish a utilization program that may require prior authorization in order to ensure medically necessary and cost-effective treatments. The program shall be operated in accordance with a federally approved waiver program or state plan amendment. The agency may seek a federal waiver or state plan amendment to implement this program. The agency may also competitively procure these services from an outside vendor on a regional or statewide basis. This subsection expires October 1, 2014.

(41) ~~(43)~~ The agency shall ~~may~~ contract on a prepaid or fixed-sum basis with appropriately licensed prepaid dental health plans to provide dental services. This subsection expires

October 1, 2014.

(42)~~(44)~~ The Agency for Health Care Administration shall ensure that any Medicaid managed care plan as defined in s. 409.9122(2)(f), whether paid on a capitated basis or a shared savings basis, is cost-effective. For purposes of this subsection, the term "cost-effective" means that a network's per-member, per-month costs to the state, including, but not limited to, fee-for-service costs, administrative costs, and case-management fees, if any, must be no greater than the state's costs associated with contracts for Medicaid services established under subsection (3), which may be adjusted for health status. The agency shall conduct actuarially sound adjustments for health status in order to ensure such cost-effectiveness and shall annually publish the results on its Internet website. Contracts established pursuant to this subsection which are not cost-effective may not be renewed. This subsection expires October 1, 2014.

(43)~~(45)~~ Subject to the availability of funds, the agency shall mandate a recipient's participation in a provider lock-in program, when appropriate, if a recipient is found by the agency to have used Medicaid goods or services at a frequency or amount not medically necessary, limiting the receipt of goods or services to medically necessary providers after the 21-day appeal process has ended, for a period of not less than 1 year. The lock-in programs shall include, but are not limited to, pharmacies, medical doctors, and infusion clinics. The limitation does not apply to emergency services and care provided to the recipient in a hospital emergency department.

The agency shall seek any federal waivers necessary to implement this subsection. The agency shall adopt any rules necessary to comply with or administer this subsection. This subsection expires October 1, 2014.

(44) ~~(46)~~ The agency shall seek a federal waiver for permission to terminate the eligibility of a Medicaid recipient who has been found to have committed fraud, through judicial or administrative determination, two times in a period of 5 years.

~~(47) The agency shall conduct a study of available electronic systems for the purpose of verifying the identity and eligibility of a Medicaid recipient. The agency shall recommend to the Legislature a plan to implement an electronic verification system for Medicaid recipients by January 31, 2005.~~

(45) ~~(48)~~ (a) A provider is not entitled to enrollment in the Medicaid provider network. The agency may implement a Medicaid fee-for-service provider network controls, including, but not limited to, competitive procurement and provider credentialing. If a credentialing process is used, the agency may limit its provider network based upon the following considerations: beneficiary access to care, provider availability, provider quality standards and quality assurance processes, cultural competency, demographic characteristics of beneficiaries, practice standards, service wait times, provider turnover, provider licensure and accreditation history, program integrity history, peer review, Medicaid policy and billing compliance records, clinical and medical record audit findings, and such other areas that are considered necessary by the agency to ensure the integrity of the program.

(b) The agency shall limit its network of durable medical equipment and medical supply providers. For dates of service after January 1, 2009, the agency shall limit payment for durable medical equipment and supplies to providers that meet all the requirements of this paragraph.

1. Providers must be accredited by a Centers for Medicare and Medicaid Services deemed accreditation organization for suppliers of durable medical equipment, prosthetics, orthotics, and supplies. The provider must maintain accreditation and is subject to unannounced reviews by the accrediting organization.

2. Providers must provide the services or supplies directly to the Medicaid recipient or caregiver at the provider location or recipient's residence or send the supplies directly to the recipient's residence with receipt of mailed delivery. Subcontracting or consignment of the service or supply to a third party is prohibited.

3. Notwithstanding subparagraph 2., a durable medical equipment provider may store nebulizers at a physician's office for the purpose of having the physician's staff issue the equipment if it meets all of the following conditions:

a. The physician must document the medical necessity and need to prevent further deterioration of the patient's respiratory status by the timely delivery of the nebulizer in the physician's office.

b. The durable medical equipment provider must have written documentation of the competency and training by a Florida-licensed registered respiratory therapist of any durable medical equipment staff who participate in the training of

physician office staff for the use of nebulizers, including cleaning, warranty, and special needs of patients.

c. The physician's office must have documented the training and competency of any staff member who initiates the delivery of nebulizers to patients. The durable medical equipment provider must maintain copies of all physician office training.

d. The physician's office must maintain inventory records of stored nebulizers, including documentation of the durable medical equipment provider source.

e. A physician contracted with a Medicaid durable medical equipment provider may not have a financial relationship with that provider or receive any financial gain from the delivery of nebulizers to patients.

4. Providers must have a physical business location and a functional landline business phone. The location must be within the state or not more than 50 miles from the Florida state line. The agency may make exceptions for providers of durable medical equipment or supplies not otherwise available from other enrolled providers located within the state.

5. Physical business locations must be clearly identified as a business that furnishes durable medical equipment or medical supplies by signage that can be read from 20 feet away. The location must be readily accessible to the public during normal, posted business hours and must operate at least 5 hours per day and at least 5 days per week, with the exception of scheduled and posted holidays. The location may not be located within or at the same numbered street address as another

enrolled Medicaid durable medical equipment or medical supply provider or as an enrolled Medicaid pharmacy that is also enrolled as a durable medical equipment provider. A licensed orthotist or prosthetist that provides only orthotic or prosthetic devices as a Medicaid durable medical equipment provider is exempt from this paragraph.

6. Providers must maintain a stock of durable medical equipment and medical supplies on site that is readily available to meet the needs of the durable medical equipment business location's customers.

7. Providers must provide a surety bond of $50,000 for each provider location, up to a maximum of 5 bonds statewide or an aggregate bond of $250,000 statewide, as identified by Federal Employer Identification Number. Providers who post a statewide or an aggregate bond must identify all of their locations in any Medicaid durable medical equipment and medical supply provider enrollment application or bond renewal. Each provider location's surety bond must be renewed annually and the provider must submit proof of renewal even if the original bond is a continuous bond. A licensed orthotist or prosthetist that provides only orthotic or prosthetic devices as a Medicaid durable medical equipment provider is exempt from the provisions in this paragraph.

8. Providers must obtain a level 2 background screening, in accordance with chapter 435 and s. 408.809, for each provider employee in direct contact with or providing direct services to recipients of durable medical equipment and medical supplies in their homes. This requirement includes, but is not limited to,

repair and service technicians, fitters, and delivery staff. The provider shall pay for the cost of the background screening.

9. The following providers are exempt from subparagraphs 1. and 7.:

a. Durable medical equipment providers owned and operated by a government entity.

b. Durable medical equipment providers that are operating within a pharmacy that is currently enrolled as a Medicaid pharmacy provider.

c. Active, Medicaid-enrolled orthopedic physician groups, primarily owned by physicians, which provide only orthotic and prosthetic devices.

(46) ~~(49)~~ The agency shall contract with established minority physician networks that provide services to historically underserved minority patients. The networks must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide their primary care physicians with access to data and other management tools necessary to assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.

(a) The agency shall provide for the development and expansion of minority physician networks in each service area to provide services to Medicaid recipients who are eligible to participate under federal law and rules.

(b) The agency shall reimburse each minority physician network as a fee-for-service provider, including the case management fee for primary care, if any, or as a capitated rate

provider for Medicaid services. Any savings shall be shared with the minority physician networks pursuant to the contract.

(c) For purposes of this subsection, the term "cost-effective" means that a network's per-member, per-month costs to the state, including, but not limited to, fee-for-service costs, administrative costs, and case-management fees, if any, must be no greater than the state's costs associated with contracts for Medicaid services established under subsection (3), which shall be actuarially adjusted for case mix, model, and service area. The agency shall conduct actuarially sound audits adjusted for case mix and model in order to ensure such cost-effectiveness and shall annually publish the audit results on its Internet website. Contracts established pursuant to this subsection which are not cost-effective may not be renewed.

(d) The agency may apply for any federal waivers needed to implement this subsection.

This subsection expires October 1, 2014.

(47) ~~(50)~~ To the extent permitted by federal law and as allowed under s. 409.906, the agency shall provide reimbursement for emergency mental health care services for Medicaid recipients in crisis stabilization facilities licensed under s. 394.875 as long as those services are less expensive than the same services provided in a hospital setting.

(48) ~~(51)~~ The agency shall work with the Agency for Persons with Disabilities to develop a home and community-based waiver to serve children and adults who are diagnosed with familial dysautonomia or Riley-Day syndrome caused by a mutation of the

IKBKAP gene on chromosome 9. The agency shall seek federal waiver approval and implement the approved waiver subject to the availability of funds and any limitations provided in the General Appropriations Act. The agency may adopt rules to implement this waiver program.

(49)~~(52)~~ The agency shall implement a program of all-inclusive care for children. The program of all-inclusive care for children shall be established to provide in-home hospice-like support services to children diagnosed with a life-threatening illness and enrolled in the Children's Medical Services network to reduce hospitalizations as appropriate. The agency, in consultation with the Department of Health, may implement the program of all-inclusive care for children after obtaining approval from the Centers for Medicare and Medicaid Services.

(50)~~(53)~~ Before seeking an amendment to the state plan for purposes of implementing programs authorized by the Deficit Reduction Act of 2005, the agency shall notify the Legislature.

(51) The agency may not pay for psychotropic medication prescribed for a child in the Medicaid program without the express and informed consent of the child's parent or legal guardian. The physician shall document the consent in the child's medical record and provide the pharmacy with a signed attestation of this documentation with the prescription. The express and informed consent or court authorization for a prescription of psychotropic medication for a child in the custody of the Department of Children and Family Services shall be obtained pursuant to s. 39.407.

Section 18. Section 409.91207, Florida Statutes, is repealed.

Section 19. Paragraphs (e), (l), (p), (w), and (dd) of subsection (3) of section 409.91211, Florida Statutes, are amended to read:

409.91211 Medicaid managed care pilot program.—

(3) The agency shall have the following powers, duties, and responsibilities with respect to the pilot program:

(e) To implement policies and guidelines for phasing in financial risk for approved provider service networks that, for purposes of this paragraph, include the Children's Medical Services Network, over the period of the waiver and the extension thereof. These policies and guidelines must include an option for a provider service network to be paid fee-for-service rates. For any provider service network established in a managed care pilot area, the option to be paid fee-for-service rates must include a savings-settlement mechanism that is consistent with s. 409.912(42) ~~(44)~~. This model must be converted to a risk-adjusted capitated rate by the beginning of the final year of operation under the waiver extension, and may be converted earlier at the option of the provider service network. Federally qualified health centers may be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid primary care services.

(l) To implement a system that prohibits capitated managed care plans, their representatives, and providers employed by or contracted with the capitated managed care plans from recruiting persons eligible for or enrolled in Medicaid, from providing

inducements to Medicaid recipients to select a particular capitated managed care plan, and from prejudicing Medicaid recipients against other capitated managed care plans. The system shall require the entity performing choice counseling to determine if the recipient has made a choice of a plan or has opted out because of duress, threats, payment to the recipient, or incentives promised to the recipient by a third party. If the choice counseling entity determines that the decision to choose a plan was unlawfully influenced or a plan violated any of the provisions of s. 409.912(20)~~(21)~~, the choice counseling entity shall immediately report the violation to the agency's program integrity section for investigation. Verification of choice counseling by the recipient shall include a stipulation that the recipient acknowledges the provisions of this subsection.

(p) To implement standards for plan compliance, including, but not limited to, standards for quality assurance and performance improvement, standards for peer or professional reviews, grievance policies, and policies for maintaining program integrity. The agency shall develop a data-reporting system, seek input from managed care plans in order to establish requirements for patient-encounter reporting, and ensure that the data reported is accurate and complete.

1. In performing the duties required under this section, the agency shall work with managed care plans to establish a uniform system to measure and monitor outcomes for a recipient of Medicaid services.

2. The system shall use financial, clinical, and other criteria based on pharmacy, medical services, and other data

that is related to the provision of Medicaid services, including, but not limited to:

a. The Health Plan Employer Data and Information Set (HEDIS) or measures that are similar to HEDIS.

b. Member satisfaction.

c. Provider satisfaction.

d. Report cards on plan performance and best practices.

e. Compliance with the requirements for prompt payment of claims under ss. 627.613, 641.3155, and 641.513.

f. Utilization and quality data for the purpose of ensuring access to medically necessary services, including underutilization or inappropriate denial of services.

3. The agency shall require the managed care plans that have contracted with the agency to establish a quality assurance system that incorporates the provisions of s. 409.912(26) ~~(27)~~ and any standards, rules, and guidelines developed by the agency.

4. The agency shall establish an encounter database in order to compile data on health services rendered by health care practitioners who provide services to patients enrolled in managed care plans in the demonstration sites. The encounter database shall:

a. Collect the following for each type of patient encounter with a health care practitioner or facility, including:

(I) The demographic characteristics of the patient.

(II) The principal, secondary, and tertiary diagnosis.

(III) The procedure performed.

(IV) The date and location where the procedure was performed.

(V) The payment for the procedure, if any.

(VI) If applicable, the health care practitioner's universal identification number.

(VII) If the health care practitioner rendering the service is a dependent practitioner, the modifiers appropriate to indicate that the service was delivered by the dependent practitioner.

b. Collect appropriate information relating to prescription drugs for each type of patient encounter.

c. Collect appropriate information related to health care costs and utilization from managed care plans participating in the demonstration sites.

5. To the extent practicable, when collecting the data the agency shall use a standardized claim form or electronic transfer system that is used by health care practitioners, facilities, and payors.

6. Health care practitioners and facilities in the demonstration sites shall electronically submit, and managed care plans participating in the demonstration sites shall electronically receive, information concerning claims payments and any other information reasonably related to the encounter database using a standard format as required by the agency.

7. The agency shall establish reasonable deadlines for phasing in the electronic transmittal of full encounter data.

8. The system must ensure that the data reported is accurate and complete.

(w) To implement procedures to minimize the risk of Medicaid fraud and abuse in all plans operating in the Medicaid managed care pilot program authorized in this section.

1. The agency shall ensure that applicable provisions of this chapter and chapters 414, 626, 641, and 932 which relate to Medicaid fraud and abuse are applied and enforced at the demonstration project sites.

2. Providers must have the certification, license, and credentials that are required by law and waiver requirements.

3. The agency shall ensure that the plan is in compliance with s. 409.912(20) and (21) ~~and (22)~~.

4. The agency shall require that each plan establish functions and activities governing program integrity in order to reduce the incidence of fraud and abuse. Plans must report instances of fraud and abuse pursuant to chapter 641.

5. The plan shall have written administrative and management arrangements or procedures, including a mandatory compliance plan, which are designed to guard against fraud and abuse. The plan shall designate a compliance officer who has sufficient experience in health care.

6.a. The agency shall require all managed care plan contractors in the pilot program to report all instances of suspected fraud and abuse. A failure to report instances of suspected fraud and abuse is a violation of law and subject to the penalties provided by law.

b. An instance of fraud and abuse in the managed care plan, including, but not limited to, defrauding the state health care benefit program by misrepresentation of fact in reports,

claims, certifications, enrollment claims, demographic statistics, or patient-encounter data; misrepresentation of the qualifications of persons rendering health care and ancillary services; bribery and false statements relating to the delivery of health care; unfair and deceptive marketing practices; and false claims actions in the provision of managed care, is a violation of law and subject to the penalties provided by law.

c. The agency shall require that all contractors make all files and relevant billing and claims data accessible to state regulators and investigators and that all such data is linked into a unified system to ensure consistent reviews and investigations.

(dd) To implement service delivery mechanisms within a specialty plan in area 10 to provide behavioral health care services to Medicaid-eligible children whose cases are open for child welfare services in the HomeSafeNet system. These services must be coordinated with community-based care providers as specified in s. 409.1671, where available, and be sufficient to meet the developmental, behavioral, and emotional needs of these children. Children in area 10 who have an open case in the HomeSafeNet system shall be enrolled into the specialty plan. These service delivery mechanisms must be implemented no later than July 1, 2011, in AHCA area 10 in order for the children in AHCA area 10 to remain exempt from the statewide plan under s. 409.912(4)(b)5.~~8.~~ An administrative fee may be paid to the specialty plan for the coordination of services based on the receipt of the state share of that fee being provided through intergovernmental transfers.

Section 20. Effective October 1, 2014, section 409.91211, Florida Statutes, is repealed.

Section 21. Section 409.9122, Florida Statutes, is amended to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(1) It is the intent of the Legislature that the MediPass program be cost-effective, provide quality health care, and improve access to health services, and that the program be statewide. This subsection expires October 1, 2014.

(2)(a) The agency shall enroll in a managed care plan or MediPass all Medicaid recipients, except those Medicaid recipients who are: in an institution; enrolled in the Medicaid medically needy program; or eligible for both Medicaid and Medicare. Upon enrollment, individuals will be able to change their managed care option during the 90-day opt out period required by federal Medicaid regulations. The agency is authorized to seek the necessary Medicaid state plan amendment to implement this policy. However, to the extent permitted by federal law, the agency may enroll in a managed care plan or MediPass a Medicaid recipient who is exempt from mandatory managed care enrollment, provided that:

1. The recipient's decision to enroll in a managed care plan or MediPass is voluntary;

2. If the recipient chooses to enroll in a managed care plan, the agency has determined that the managed care plan provides specific programs and services which address the special health needs of the recipient; and

3. The agency receives any necessary waivers from the federal Centers for Medicare and Medicaid Services.

~~The agency shall develop rules to establish policies by which exceptions to the mandatory managed care enrollment requirement may be made on a case-by-case basis. The rules shall include the specific criteria to be applied when making a determination as to whether to exempt a recipient from mandatory enrollment in a managed care plan or MediPass.~~ School districts participating in the certified school match program pursuant to ss. 409.908(21) and 1011.70 shall be reimbursed by Medicaid, subject to the limitations of s. 1011.70(1), for a Medicaid-eligible child participating in the services as authorized in s. 1011.70, as provided for in s. 409.9071, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with school districts regarding the coordinated provision of services authorized under s. 1011.70. County health departments delivering school-based services pursuant to ss. 381.0056 and 381.0057 shall be reimbursed by Medicaid for the federal share for a Medicaid-eligible child who receives Medicaid-covered services in a school setting, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with county health departments regarding the coordinated provision of services to a Medicaid-eligible child. To ensure continuity of care for Medicaid patients, the agency, the Department of Health, and the Department of Education shall develop procedures

for ensuring that a student's managed care plan or MediPass provider receives information relating to services provided in accordance with ss. 381.0056, 381.0057, 409.9071, and 1011.70.

(b) A Medicaid recipient shall not be enrolled in or assigned to a managed care plan or MediPass unless the managed care plan or MediPass has complied with the quality-of-care standards specified in paragraphs (3)(a) and (b), respectively.

(c) Medicaid recipients shall have a choice of managed care plans or MediPass. The Agency for Health Care Administration, the Department of Health, the Department of Children and Family Services, and the Department of Elderly Affairs shall cooperate to ensure that each Medicaid recipient receives clear and easily understandable information that meets the following requirements:

1. Explains the concept of managed care, including MediPass.

2. Provides information on the comparative performance of managed care plans and MediPass in the areas of quality, credentialing, preventive health programs, network size and availability, and patient satisfaction.

3. Explains where additional information on each managed care plan and MediPass in the recipient's area can be obtained.

4. Explains that recipients have the right to choose their managed care coverage at the time they first enroll in Medicaid and again at regular intervals set by the agency. However, if a recipient does not choose a managed care plan or MediPass, the agency will assign the recipient to a managed care plan or MediPass according to the criteria specified in this section.

5. Explains the recipient's right to complain, file a grievance, or change managed care plans or MediPass providers if the recipient is not satisfied with the managed care plan or MediPass.

(d) The agency shall develop a mechanism for providing information to Medicaid recipients for the purpose of making a managed care plan or MediPass selection. Examples of such mechanisms may include, but not be limited to, interactive information systems, mailings, and mass marketing materials. Managed care plans and MediPass providers are prohibited from providing inducements to Medicaid recipients to select their plans or from prejudicing Medicaid recipients against other managed care plans or MediPass providers.

(e) Medicaid recipients who are already enrolled in a managed care plan or MediPass shall be offered the opportunity to change managed care plans or MediPass providers on a staggered basis, as defined by the agency. All Medicaid recipients shall have 30 days in which to make a choice of managed care plans or MediPass providers. Those Medicaid recipients who do not make a choice shall be assigned in accordance with paragraph (f). To facilitate continuity of care, for a Medicaid recipient who is also a recipient of Supplemental Security Income (SSI), prior to assigning the SSI recipient to a managed care plan or MediPass, the agency shall determine whether the SSI recipient has an ongoing relationship with a MediPass provider or managed care plan, and if so, the agency shall assign the SSI recipient to that MediPass provider or managed care plan. Those SSI recipients who do not have such a

provider relationship shall be assigned to a managed care plan or MediPass provider in accordance with paragraph (f).

(f) If a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan or MediPass provider. Medicaid recipients eligible for managed care plan enrollment who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans until an enrollment of 35 percent in MediPass and 65 percent in managed care plans, of all those eligible to choose managed care, is achieved. Once this enrollment is achieved, the assignments shall be divided in order to maintain an enrollment in MediPass and managed care plans which is in a 35 percent and 65 percent proportion, respectively. Thereafter, assignment of Medicaid recipients who fail to make a choice shall be based proportionally on the preferences of recipients who have made a choice in the previous period. Such proportions shall be revised at least quarterly to reflect an update of the preferences of Medicaid recipients. The agency shall disproportionately assign Medicaid-eligible recipients who are required to but have failed to make a choice of managed care plan or MediPass~~, including children, and who would be assigned to the MediPass program~~ to the ~~children's networks as described in s. 409.912(4)(g),~~ Children's Medical Services Network as defined in s. 391.021, exclusive provider organizations, provider service networks, minority physician networks, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act, in such manner as the agency deems appropriate, until the agency

has determined that the networks and programs have sufficient numbers to be operated economically. For purposes of this paragraph, when referring to assignment, the term "managed care plans" includes health maintenance organizations, exclusive provider organizations, provider service networks, minority physician networks, Children's Medical Services Network, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act. When making assignments, the agency shall take into account the following criteria:

1. A managed care plan has sufficient network capacity to meet the need of members.

2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.

3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.

4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.

(g) When more than one managed care plan or MediPass provider meets the criteria specified in paragraph (f), the agency shall make recipient assignments consecutively by family unit.

(h) The agency may not engage in practices that are

designed to favor one managed care plan over another or that are designed to influence Medicaid recipients to enroll in MediPass rather than in a managed care plan or to enroll in a managed care plan rather than in MediPass. This subsection does not prohibit the agency from reporting on the performance of MediPass or any managed care plan, as measured by performance criteria developed by the agency.

(i) After a recipient has made his or her selection or has been enrolled in a managed care plan or MediPass, the recipient shall have 90 days to exercise the opportunity to voluntarily disenroll and select another managed care plan or MediPass. After 90 days, no further changes may be made except for good cause. Good cause includes, but is not limited to, poor quality of care, lack of access to necessary specialty services, an unreasonable delay or denial of service, or fraudulent enrollment. The agency shall develop criteria for good cause disenrollment for chronically ill and disabled populations who are assigned to managed care plans if more appropriate care is available through the MediPass program. The agency must make a determination as to whether cause exists. However, the agency may require a recipient to use the managed care plan's or MediPass grievance process prior to the agency's determination of cause, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when utilized, must be completed in time to permit the recipient to disenroll by the first day of the second month after the month the disenrollment request was made. If the managed care plan or MediPass, as a result of the grievance

process, approves an enrollee's request to disenroll, the agency is not required to make a determination in the case. The agency must make a determination and take final action on a recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date agency action was required. Recipients who disagree with the agency's finding that cause does not exist for disenrollment shall be advised of their right to pursue a Medicaid fair hearing to dispute the agency's finding.

(j) The agency shall apply for a federal waiver from the Centers for Medicare and Medicaid Services to lock eligible Medicaid recipients into a managed care plan or MediPass for 12 months after an open enrollment period. After 12 months' enrollment, a recipient may select another managed care plan or MediPass provider. However, nothing shall prevent a Medicaid recipient from changing primary care providers within the managed care plan or MediPass program during the 12-month period.

(k) When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan, except in those counties in which there are fewer than two managed care plans accepting Medicaid enrollees, in which case assignment shall be to a managed care plan or a MediPass provider. Medicaid recipients in counties with fewer than two managed care plans accepting Medicaid enrollees who are subject to mandatory

assignment but who fail to make a choice shall be assigned to managed care plans until an enrollment of 35 percent in MediPass and 65 percent in managed care plans, of all those eligible to choose managed care, is achieved. Once that enrollment is achieved, the assignments shall be divided in order to maintain an enrollment in MediPass and managed care plans which is in a 35 percent and 65 percent proportion, respectively. For purposes of this paragraph, when referring to assignment, the term "managed care plans" includes exclusive provider organizations, provider service networks, Children's Medical Services Network, minority physician networks, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act. When making assignments, the agency shall take into account the following criteria:

1. A managed care plan has sufficient network capacity to meet the need of members.

2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.

3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.

4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.

5. The agency has authority to make mandatory assignments

based on quality of service and performance of managed care plans.

(l) If the Medicaid recipient is diagnosed with HIV/AIDS and resides in Broward, Miami-Dade, or Palm Beach Counties, the agency shall assign the Medicaid recipient to a managed care plan that is a health maintenance organization authorized under chapter 641, is under contract with the agency on July 1, 2011, and offers a delivery system through a university-based teaching and research-oriented organization that specializes in providing health care services and treatment for individuals diagnosed with HIV/AIDS.

(m)~~(l)~~ Notwithstanding the provisions of chapter 287, the agency may, at its discretion, renew cost-effective contracts for choice counseling services once or more for such periods as the agency may decide. However, all such renewals may not combine to exceed a total period longer than the term of the original contract.

This subsection expires October 1, 2014.

(3)(a) The agency shall establish quality-of-care standards for managed care plans. These standards shall be based upon, but are not limited to:

1. Compliance with the accreditation requirements as provided in s. 641.512.

2. Compliance with Early and Periodic Screening, Diagnosis, and Treatment screening requirements.

3. The percentage of voluntary disenrollments.

4. Immunization rates.

5. Standards of the National Committee for Quality Assurance and other approved accrediting bodies.

6. Recommendations of other authoritative bodies.

7. Specific requirements of the Medicaid program, or standards designed to specifically assist the unique needs of Medicaid recipients.

8. Compliance with the health quality improvement system as established by the agency, which incorporates standards and guidelines developed by the Medicaid Bureau of the Health Care Financing Administration as part of the quality assurance reform initiative.

(b) For the MediPass program, the agency shall establish standards which are based upon, but are not limited to:

1. Quality-of-care standards which are comparable to those required of managed care plans.

2. Credentialing standards for MediPass providers.

3. Compliance with Early and Periodic Screening, Diagnosis, and Treatment screening requirements.

4. Immunization rates.

5. Specific requirements of the Medicaid program, or standards designed to specifically assist the unique needs of Medicaid recipients.

This subsection expires October 1, 2014.

(4)(a) Each female recipient may select as her primary care provider an obstetrician/gynecologist who has agreed to participate as a MediPass primary care case manager.

(b) The agency shall establish a complaints and grievance

process to assist Medicaid recipients enrolled in the MediPass program to resolve complaints and grievances. The agency shall investigate reports of quality-of-care grievances which remain unresolved to the satisfaction of the enrollee.

This subsection expires October 1, 2014.

(5)(a) The agency shall work cooperatively with the Social Security Administration to identify beneficiaries who are jointly eligible for Medicare and Medicaid and shall develop cooperative programs to encourage these beneficiaries to enroll in a Medicare participating health maintenance organization or prepaid health plans.

(b) The agency shall work cooperatively with the Department of Elderly Affairs to assess the potential cost-effectiveness of providing MediPass to beneficiaries who are jointly eligible for Medicare and Medicaid on a voluntary choice basis. If the agency determines that enrollment of these beneficiaries in MediPass has the potential for being cost-effective for the state, the agency shall offer MediPass to these beneficiaries on a voluntary choice basis in the counties where MediPass operates.

This subsection expires October 1, 2014.

(6) MediPass enrolled recipients may receive up to 10 visits of reimbursable services by participating Medicaid physicians licensed under chapter 460 and up to four visits of reimbursable services by participating Medicaid physicians licensed under chapter 461. Any further visits must be by prior

authorization by the MediPass primary care provider. However, nothing in this subsection may be construed to increase the total number of visits or the total amount of dollars per year per person under current Medicaid rules, unless otherwise provided for in the General Appropriations Act. This subsection expires October 1, 2014.

~~(7) The agency shall investigate the feasibility of developing managed care plan and MediPass options for the following groups of Medicaid recipients:~~

~~(a) Pregnant women and infants.~~

~~(b) Elderly and disabled recipients, especially those who are at risk of nursing home placement.~~

~~(c) Persons with developmental disabilities.~~

~~(d) Qualified Medicare beneficiaries.~~

~~(e) Adults who have chronic, high-cost medical conditions.~~

~~(f) Adults and children who have mental health problems.~~

~~(g) Other recipients for whom managed care plans and MediPass offer the opportunity of more cost-effective care and greater access to qualified providers.~~

~~(8)(a) The agency shall encourage the development of public and private partnerships to foster the growth of health maintenance organizations and prepaid health plans that will provide high-quality health care to Medicaid recipients.~~

~~(b) Subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216, the agency is authorized to enter into contracts with traditional providers of health care to low-income persons to assist such providers with the technical aspects of~~

~~cooperatively developing Medicaid prepaid health plans.~~

~~1. The agency may contract with disproportionate share hospitals, county health departments, federally initiated or federally funded community health centers, and counties that operate either a hospital or a community clinic.~~

~~2. A contract may not be for more than $100,000 per year, and no contract may be extended with any particular provider for more than 2 years. The contract is intended only as seed or development funding and requires a commitment from the interested party.~~

~~3. A contract must require participation by at least one community health clinic and one disproportionate share hospital.~~

(7)~~(9)~~(a) The agency shall develop and implement a comprehensive plan to ensure that recipients are adequately informed of their choices and rights under all Medicaid managed care programs and that Medicaid managed care programs meet acceptable standards of quality in patient care, patient satisfaction, and financial solvency.

(b) The agency shall provide adequate means for informing patients of their choice and rights under a managed care plan at the time of eligibility determination.

(c) The agency shall require managed care plans and MediPass providers to demonstrate and document plans and activities, as defined by rule, including outreach and followup, undertaken to ensure that Medicaid recipients receive the health care service to which they are entitled.

This subsection expires October 1, 2014.

(8)~~(10)~~ The agency shall consult with Medicaid consumers and their representatives on an ongoing basis regarding measurements of patient satisfaction, procedures for resolving patient grievances, standards for ensuring quality of care, mechanisms for providing patient access to services, and policies affecting patient care. This subsection expires October 1, 2014.

(9)~~(11)~~ The agency may extend eligibility for Medicaid recipients enrolled in licensed and accredited health maintenance organizations for the duration of the enrollment period or for 6 months, whichever is earlier, provided the agency certifies that such an offer will not increase state expenditures. This subsection expires October 1, 2013.

(10)~~(12)~~ A managed care plan that has a Medicaid contract shall at least annually review each primary care physician's active patient load and shall ensure that additional Medicaid recipients are not assigned to physicians who have a total active patient load of more than 3,000 patients. As used in this subsection, the term "active patient" means a patient who is seen by the same primary care physician, or by a physician assistant or advanced registered nurse practitioner under the supervision of the primary care physician, at least three times within a calendar year. Each primary care physician shall annually certify to the managed care plan whether or not his or her patient load exceeds the limits established under this subsection and the managed care plan shall accept such certification on face value as compliance with this subsection. The agency shall accept the managed care plan's representations

that it is in compliance with this subsection based on the certification of its primary care physicians, unless the agency has an objective indication that access to primary care is being compromised, such as receiving complaints or grievances relating to access to care. If the agency determines that an objective indication exists that access to primary care is being compromised, it may verify the patient load certifications submitted by the managed care plan's primary care physicians and that the managed care plan is not assigning Medicaid recipients to primary care physicians who have an active patient load of more than 3,000 patients. This subsection expires October 1, 2014.

(11) ~~(13)~~ Effective July 1, 2003, the agency shall adjust the enrollee assignment process of Medicaid managed prepaid health plans for those Medicaid managed prepaid plans operating in Miami-Dade County which have executed a contract with the agency for a minimum of 8 consecutive years in order for the Medicaid managed prepaid plan to maintain a minimum enrollment level of 15,000 members per month. When assigning enrollees pursuant to this subsection, the agency shall give priority to providers that initially qualified under this subsection until such providers reach and maintain an enrollment level of 15,000 members per month. A prepaid health plan that has a statewide Medicaid enrollment of 25,000 or more members is not eligible for enrollee assignments under this subsection. This subsection expires October 1, 2014.

(12) ~~(14)~~ The agency shall include in its calculation of the hospital inpatient component of a Medicaid health

maintenance organization's capitation rate any special payments, including, but not limited to, upper payment limit or disproportionate share hospital payments, made to qualifying hospitals through the fee-for-service program. The agency may seek federal waiver approval or state plan amendment as needed to implement this adjustment.

(13) The agency shall develop a process to enable any recipient with access to employer-sponsored health care coverage to opt out of all eligible plans in the Medicaid program and to use Medicaid financial assistance to pay for the recipient's share of cost in any such employer-sponsored coverage. Contingent on federal approval, the agency shall also enable recipients with access to other insurance or related products that provide access to health care services created pursuant to state law, including any plan or product available pursuant to the Florida Health Choices Program or any health exchange, to opt out. The amount of financial assistance provided for each recipient may not exceed the amount of the Medicaid premium that would have been paid to a plan for that recipient.

(14) The agency shall maintain and operate the Medicaid Encounter Data System to collect, process, store, and report on covered services provided to all Florida Medicaid recipients enrolled in prepaid managed care plans.

(a) Prepaid managed care plans shall submit encounter data electronically in a format that complies with the Health Insurance Portability and Accountability Act provisions for electronic claims and in accordance with deadlines established by the agency. Prepaid managed care plans must certify that the

data reported is accurate and complete.

(b) The agency is responsible for validating the data submitted by the plans. The agency shall develop methods and protocols for ongoing analysis of the encounter data that adjusts for differences in characteristics of prepaid plan enrollees to allow comparison of service utilization among plans and against expected levels of use. The analysis shall be used to identify possible cases of systemic underutilization or denials of claims and inappropriate service utilization such as higher-than-expected emergency department encounters. The analysis shall provide periodic feedback to the plans and enable the agency to establish corrective action plans when necessary. One of the focus areas for the analysis shall be the use of prescription drugs.

(15) The agency may establish a per-member, per-month payment for Medicare Advantage Special Needs members that are also eligible for Medicaid as a mechanism for meeting the state's cost-sharing obligation. The agency may also develop a per-member, per-month payment only for Medicaid-covered services for which the state is responsible. The agency shall develop a mechanism to ensure that such per-member, per-month payment enhances the value to the state and enrolled members by limiting cost sharing, enhances the scope of Medicare supplemental benefits that are equal to or greater than Medicaid coverage for select services, and improves care coordination.

(16) The agency shall establish, and managed care plans shall use, a uniform method of accounting for and reporting medical and nonmedical costs.

(a) Managed care plans shall submit financial data electronically in a format that complies with the uniform accounting procedures established by the agency. Managed care plans must certify that the data reported is accurate and complete.

(b) The agency is responsible for validating the financial data submitted by the plans. The agency shall develop methods and protocols for ongoing analysis of data that adjusts for differences in characteristics of plan enrollees to allow comparison among plans and against expected levels of expenditures. The analysis shall be used to identify possible cases of overspending on administrative costs or under spending on medical services.

(17) The agency shall establish and maintain an information system to make encounter data, financial data, and other measures of plan performance to the public and any interested party.

(a) Information submitted by the managed care plans shall be available online as well as in other formats.

(b) Periodic agency reports shall be published that include provide summary as well as plan specific measures of financial performance and service utilization.

(c) Any release of the financial and encounter data submitted by managed care plans shall ensure the confidentiality of personal health information.

(18) The agency may, on a case-by-case basis, exempt a recipient from mandatory enrollment in a managed care plan when the recipient has a unique, time-limited disease or condition-

related circumstance and managed care enrollment will interfere with ongoing care because the recipient's provider does not participate in the managed care plans available in the recipient's area.

(19) The agency shall contract with a single provider service network to function as a managing entity for the MediPass program in all counties with fewer than two prepaid plans. The contractor shall be responsible for implementing preauthorization procedures, case management programs, and utilization management initiatives in order to improve care coordination and patient outcomes while reducing costs. The contractor may earn an administrative fee, if the fee is less than any savings determined by the reconciliation process pursuant to s. 409.912(4)(d)1. This subsection expires October 1, 2014, or upon full implementation of the managed medical assistance program, whichever is sooner.

(20) Subject to federal approval, the agency shall contract with a single provider service network to function as a third-party administrator and managing entity for the Medically Needy program in all counties. The contractor shall provide care coordination and utilization management in order to achieve more cost-effective services for Medically Needy enrollees. To facilitate the care management functions of the provider service network, enrollment in the network shall be for a continuous 6-month period or until the end of the contract between the provider service network and the agency, whichever is sooner. Beginning the second month after the determination of eligibility, the contractor may collect a monthly premium from

each Medically Needy recipient provided the premium does not exceed the enrollee's share of cost as determined by the Department of Children and Family Services. The contractor must provide a 90-day grace period before disenrolling a Medically Needy recipient for failure to pay premiums. The contractor may earn an administrative fee, if the fee is less than any savings determined by the reconciliation process pursuant to s. 409.912(4)(d)1. Premium revenue collected from the recipients shall be deducted from the contractor's earned savings. This subsection expires October 1, 2014, or upon full implementation of the managed medical assistance program, whichever is sooner.

Section 22. Subsection (15) of section 430.04, Florida Statutes, is amended to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(15) Administer all Medicaid waivers and programs relating to elders and their appropriations. The waivers include, but are not limited to:

~~(a) The Alzheimer's Dementia-Specific Medicaid Waiver as established in s. 430.502(7), (8), and (9).~~

(a)~~(b)~~ The Assisted Living for the Frail Elderly Waiver.

(b)~~(c)~~ The Aged and Disabled Adult Waiver.

(c)~~(d)~~ The Adult Day Health Care Waiver.

(d)~~(e)~~ The Consumer-Directed Care Plus Program as defined in s. 409.221.

(e)~~(f)~~ The Program of All-inclusive Care for the Elderly.

(f)~~(g)~~ The Long-Term Care Community-Based Diversion Pilot Project as described in s. 430.705.

(g) ~~(h)~~ The Channeling Services Waiver for Frail Elders.

The department shall develop a transition plan for recipients receiving services in long-term care Medicaid waivers for elders or disabled adults on the date eligible plans become available in each recipient's region defined in s. 409.981(2) to enroll those recipients in eligible plans. This subsection expires October 1, 2014.

Section 23. Section 430.2053, Florida Statutes, is amended to read:

430.2053 Aging resource centers.—

(1) The department, in consultation with the Agency for Health Care Administration and the Department of Children and Family Services, shall develop pilot projects for aging resource centers. ~~By October 31, 2004, the department, in consultation with the agency and the Department of Children and Family Services, shall develop an implementation plan for aging resource centers and submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must include qualifications for designation as a center, the functions to be performed by each center, and a process for determining that a current area agency on aging is ready to assume the functions of an aging resource center.~~

~~(2) Each area agency on aging shall develop, in consultation with the existing community care for the elderly lead agencies within their planning and service areas, a proposal that describes the process the area agency on aging~~

~~intends to undertake to transition to an aging resource center prior to July 1, 2005, and that describes the area agency's compliance with the requirements of this section. The proposals must be submitted to the department prior to December 31, 2004. The department shall evaluate all proposals for readiness and, prior to March 1, 2005, shall select three area agencies on aging which meet the requirements of this section to begin the transition to aging resource centers. Those area agencies on aging which are not selected to begin the transition to aging resource centers shall, in consultation with the department and the existing community care for the elderly lead agencies within their planning and service areas, amend their proposals as necessary and resubmit them to the department prior to July 1, 2005. The department may transition additional area agencies to aging resource centers as it determines that area agencies are in compliance with the requirements of this section.~~

~~(3) The Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall jointly review and assess the department's process for determining an area agency's readiness to transition to an aging resource center.~~

~~(a) The review must, at a minimum, address the appropriateness of the department's criteria for selection of an area agency to transition to an aging resource center, the instruments applied, the degree to which the department accurately determined each area agency's compliance with the readiness criteria, the quality of the technical assistance provided by the department to an area agency in correcting any~~

~~weaknesses identified in the readiness assessment, and the degree to which each area agency overcame any identified weaknesses.~~

~~(b) Reports of these reviews must be submitted to the appropriate substantive and appropriations committees in the Senate and the House of Representatives on March 1 and September 1 of each year until full transition to aging resource centers has been accomplished statewide, except that the first report must be submitted by February 1, 2005, and must address all readiness activities undertaken through December 31, 2004. The perspectives of all participants in this review process must be included in each report.~~

(2) ~~(4)~~ The purposes of an aging resource center shall be:

(a) To provide Florida's elders and their families with a locally focused, coordinated approach to integrating information and referral for all available services for elders with the eligibility determination entities for state and federally funded long-term-care services.

(b) To provide for easier access to long-term-care services by Florida's elders and their families by creating multiple access points to the long-term-care network that flow through one established entity with wide community recognition.

(3) ~~(5)~~ The duties of an aging resource center are to:

(a) Develop referral agreements with local community service organizations, such as senior centers, existing elder service providers, volunteer associations, and other similar organizations, to better assist clients who do not need or do not wish to enroll in programs funded by the department or the

agency. The referral agreements must also include a protocol, developed and approved by the department, which provides specific actions that an aging resource center and local community service organizations must take when an elder or an elder's representative seeking information on long-term-care services contacts a local community service organization prior to contacting the aging resource center. The protocol shall be designed to ensure that elders and their families are able to access information and services in the most efficient and least cumbersome manner possible.

(b) Provide an initial screening of all clients who request long-term-care services to determine whether the person would be most appropriately served through any combination of federally funded programs, state-funded programs, locally funded or community volunteer programs, or private funding for services.

(c) Determine eligibility for the programs and services listed in subsection (9) ~~(11)~~ for persons residing within the geographic area served by the aging resource center and determine a priority ranking for services which is based upon the potential recipient's frailty level and likelihood of institutional placement without such services.

(d) Manage the availability of financial resources for the programs and services listed in subsection (9) ~~(11)~~ for persons residing within the geographic area served by the aging resource center.

(e) When financial resources become available, refer a client to the most appropriate entity to begin receiving

services. The aging resource center shall make referrals to lead agencies for service provision that ensure that individuals who are vulnerable adults in need of services pursuant to s. 415.104(3)(b), or who are victims of abuse, neglect, or exploitation in need of immediate services to prevent further harm and are referred by the adult protective services program, are given primary consideration for receiving community-care-for-the-elderly services in compliance with the requirements of s. 430.205(5)(a) and that other referrals for services are in compliance with s. 430.205(5)(b).

(f) Convene a work group to advise in the planning, implementation, and evaluation of the aging resource center. The work group shall be comprised of representatives of local service providers, Alzheimer's Association chapters, housing authorities, social service organizations, advocacy groups, representatives of clients receiving services through the aging resource center, and any other persons or groups as determined by the department. The aging resource center, in consultation with the work group, must develop annual program improvement plans that shall be submitted to the department for consideration. The department shall review each annual improvement plan and make recommendations on how to implement the components of the plan.

(g) Enhance the existing area agency on aging in each planning and service area by integrating, either physically or virtually, the staff and services of the area agency on aging with the staff of the department's local CARES Medicaid ~~nursing home~~ preadmission screening unit and a sufficient number of

staff from the Department of Children and Family Services' Economic Self-Sufficiency Unit necessary to determine the financial eligibility for all persons age 60 and older residing within the area served by the aging resource center that are seeking Medicaid services, Supplemental Security Income, and food assistance.

(h) Assist clients who request long-term care services in being evaluated for eligibility for enrollment in the Medicaid long-term care managed care program as eligible plans become available in each of the regions pursuant to s. 409.981(2).

(i) Provide enrollment and coverage information to Medicaid managed long-term care enrollees as qualified plans become available in each of the regions pursuant to s. 409.981(2).

(j) Assist Medicaid recipients enrolled in the Medicaid long-term care managed care program with informally resolving grievances with a managed care network and assist Medicaid recipients in accessing the managed care network's formal grievance process as eligible plans become available in each of the regions defined in s. 409.981(2).

(4)~~(6)~~ The department shall select the entities to become aging resource centers based on each entity's readiness and ability to perform the duties listed in subsection (3) ~~(5)~~ and the entity's:

(a) Expertise in the needs of each target population the center proposes to serve and a thorough knowledge of the providers that serve these populations.

(b) Strong connections to service providers, volunteer

agencies, and community institutions.

(c) Expertise in information and referral activities.

(d) Knowledge of long-term-care resources, including resources designed to provide services in the least restrictive setting.

(e) Financial solvency and stability.

(f) Ability to collect, monitor, and analyze data in a timely and accurate manner, along with systems that meet the department's standards.

(g) Commitment to adequate staffing by qualified personnel to effectively perform all functions.

(h) Ability to meet all performance standards established by the department.

(5) ~~(7)~~ The aging resource center shall have a governing body which shall be the same entity described in s. 20.41(7), and an executive director who may be the same person as described in s. 20.41(7). The governing body shall annually evaluate the performance of the executive director.

(6) ~~(8)~~ The aging resource center may not be a provider of direct services other than information and referral services, and screening.

(7) ~~(9)~~ The aging resource center must agree to allow the department to review any financial information the department determines is necessary for monitoring or reporting purposes, including financial relationships.

(8) ~~(10)~~ The duties and responsibilities of the community care for the elderly lead agencies within each area served by an aging resource center shall be to:

(a) Develop strong community partnerships to maximize the use of community resources for the purpose of assisting elders to remain in their community settings for as long as it is safely possible.

(b) Conduct comprehensive assessments of clients that have been determined eligible and develop a care plan consistent with established protocols that ensures that the unique needs of each client are met.

(9) ~~(11)~~ The services to be administered through the aging resource center shall include those funded by the following programs:

(a) Community care for the elderly.

(b) Home care for the elderly.

(c) Contracted services.

(d) Alzheimer's disease initiative.

(e) Aged and disabled adult Medicaid waiver. This paragraph expires October 1, 2013.

(f) Assisted living for the frail elderly Medicaid waiver. This paragraph expires October 1, 2013.

(g) Older Americans Act.

(10) ~~(12)~~ The department shall, prior to designation of an aging resource center, develop by rule operational and quality assurance standards and outcome measures to ensure that clients receiving services through all long-term-care programs administered through an aging resource center are receiving the appropriate care they require and that contractors and subcontractors are adhering to the terms of their contracts and are acting in the best interests of the clients they are

serving, consistent with the intent of the Legislature to reduce the use of and cost of nursing home care. The department shall by rule provide operating procedures for aging resource centers, which shall include:

(a) Minimum standards for financial operation, including audit procedures.

(b) Procedures for monitoring and sanctioning of service providers.

(c) Minimum standards for technology utilized by the aging resource center.

(d) Minimum staff requirements which shall ensure that the aging resource center employs sufficient quality and quantity of staff to adequately meet the needs of the elders residing within the area served by the aging resource center.

(e) Minimum accessibility standards, including hours of operation.

(f) Minimum oversight standards for the governing body of the aging resource center to ensure its continuous involvement in, and accountability for, all matters related to the development, implementation, staffing, administration, and operations of the aging resource center.

(g) Minimum education and experience requirements for executive directors and other executive staff positions of aging resource centers.

(h) Minimum requirements regarding any executive staff positions that the aging resource center must employ and minimum requirements that a candidate must meet in order to be eligible for appointment to such positions.

(11)~~(13)~~ In an area in which the department has designated an area agency on aging as an aging resource center, the department and the agency shall not make payments for the services listed in subsection (9) ~~(11)~~ and the Long-Term Care Community Diversion Project for such persons who were not screened and enrolled through the aging resource center. The department shall cease making payments for recipients in eligible plans as eligible plans become available in each of the regions defined in s. 409.981(2).

(12)~~(14)~~ Each aging resource center shall enter into a memorandum of understanding with the department for collaboration with the CARES unit staff. The memorandum of understanding shall outline the staff person responsible for each function and shall provide the staffing levels necessary to carry out the functions of the aging resource center.

(13)~~(15)~~ Each aging resource center shall enter into a memorandum of understanding with the Department of Children and Family Services for collaboration with the Economic Self-Sufficiency Unit staff. The memorandum of understanding shall outline which staff persons are responsible for which functions and shall provide the staffing levels necessary to carry out the functions of the aging resource center.

(14)~~(16)~~ If any of the state activities described in this section are outsourced, either in part or in whole, the contract executing the outsourcing shall mandate that the contractor or its subcontractors shall, either physically or virtually, execute the provisions of the memorandum of understanding instead of the state entity whose function the contractor or

subcontractor now performs.

(15) ~~(17)~~ In order to be eligible to begin transitioning to an aging resource center, an area agency on aging board must ensure that the area agency on aging which it oversees meets all of the minimum requirements set by law and in rule.

~~(18) The department shall monitor the three initial projects for aging resource centers and report on the progress of those projects to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2005. The report must include an evaluation of the implementation process.~~

(16) ~~(19)~~ (a) Once an aging resource center is operational, the department, in consultation with the agency, may develop capitation rates for any of the programs administered through the aging resource center. Capitation rates for programs shall be based on the historical cost experience of the state in providing those same services to the population age 60 or older residing within each area served by an aging resource center. Each capitated rate may vary by geographic area as determined by the department.

(b) The department and the agency may determine for each area served by an aging resource center whether it is appropriate, consistent with federal and state laws and regulations, to develop and pay separate capitated rates for each program administered through the aging resource center or to develop and pay capitated rates for service packages which include more than one program or service administered through the aging resource center.

(c) Once capitation rates have been developed and certified as actuarially sound, the department and the agency may pay service providers the capitated rates for services when appropriate.

(d) The department, in consultation with the agency, shall annually reevaluate and recertify the capitation rates, adjusting forward to account for inflation, programmatic changes.

~~(20) The department, in consultation with the agency, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by December 1, 2006, a report addressing the feasibility of administering the following services through aging resource centers beginning July 1, 2007:~~

~~(a) Medicaid nursing home services.~~

~~(b) Medicaid transportation services.~~

~~(c) Medicaid hospice care services.~~

~~(d) Medicaid intermediate care services.~~

~~(e) Medicaid prescribed drug services.~~

~~(f) Medicaid assistive care services.~~

~~(g) Any other long-term-care program or Medicaid service.~~

(17) ~~(21)~~ This section shall not be construed to allow an aging resource center to restrict, manage, or impede the local fundraising activities of service providers.

Section 24. Effective October 1, 2013, sections 430.701, 430.702, 430.703, 430.7031, 430.704, 430.705, 430.706, 430.707, 430.708, and 430.709, Florida Statutes, are repealed.

Section 25. Sections 409.9301, 409.942, 409.944, 409.945,

409.946, 409.953, and 409.9531, Florida Statutes, are renumbered as sections 402.81, 402.82, 402.83, 402.84, 402.85, 402.86, and 402.87, Florida Statutes, respectively.

Section 26. Paragraph (a) of subsection (1) of section 443.111, Florida Statutes, is amended to read:

443.111 Payment of benefits.—

(1) MANNER OF PAYMENT.—Benefits are payable from the fund in accordance with rules adopted by the Agency for Workforce Innovation, subject to the following requirements:

(a) Benefits are payable by mail or electronically. Notwithstanding s. 402.82(4) ~~s. 409.942(4)~~, the agency may develop a system for the payment of benefits by electronic funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of electronic payment that the agency deems to be commercially viable or cost-effective. Commodities or services related to the development of such a system shall be procured by competitive solicitation, unless they are purchased from a state term contract pursuant to s. 287.056. The agency shall adopt rules necessary to administer the system.

Section 27. Subsection (4) of section 641.386, Florida Statutes, is amended to read:

641.386 Agent licensing and appointment required; exceptions.—

(4) All agents and health maintenance organizations shall comply with and be subject to the applicable provisions of ss. 641.309 and 409.912(20) ~~(21)~~, and all companies and entities appointing agents shall comply with s. 626.451, when marketing

for any health maintenance organization licensed pursuant to this part, including those organizations under contract with the Agency for Health Care Administration to provide health care services to Medicaid recipients or any private entity providing health care services to Medicaid recipients pursuant to a prepaid health plan contract with the Agency for Health Care Administration.

Section 28. Subsections (6) and (7) of section 766.118, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

766.118 Determination of noneconomic damages.—

(6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with respect to a cause of action for personal injury or wrongful death arising from medical negligence of a practitioner committed in the course of providing medical services and medical care to a Medicaid recipient, regardless of the number of such practitioner defendants providing the services and care, noneconomic damages may not exceed $300,000 per claimant, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. A practitioner providing medical services and medical care to a Medicaid recipient is not liable for more than $200,000 in noneconomic damages, regardless of the number of claimants, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. The

fact that a claimant proves that a practitioner acted in a wrongful manner does not preclude the application of the limitation on noneconomic damages prescribed elsewhere in this section. For purposes of this subsection:

(a) The terms "medical services," "medical care," and "Medicaid recipient" have the same meaning as provided in s. 409.901.

(b) The term "practitioner," in addition to the meaning prescribed in subsection (1), includes any hospital, ambulatory surgical center, or mobile surgical facility as defined and licensed under chapter 395.

(c) The term "wrongful manner" means in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, and shall be construed in conformity with the standard set forth in s. 768.28(9)(a).

Section 29. The Agency for Health Care Administration shall develop a plan for implementing a plan for medically needy Medicaid enrollees pursuant to s. 409.975(8), Florida Statutes, as created in HB 7107 or similar legislation that is adopted in the same legislative session or an extension thereof and becomes law, and shall immediately seek federal approval to implement that subsection. The plan shall include a preliminary calculation of actuarially sound rates and estimated fiscal impact.

Section 30. The Agency for Health Care Administration shall develop a reorganization plan for realignment of administrative resources of the Medicaid program to respond to

changes in functional responsibilities and priorities necessary for implementation of HB 7107 or similar legislation that is adopted in the same legislative session or an extension thereof and becomes law. The plan shall assess the agency's current capabilities, identify shifts in staffing and other resources necessary to strengthen procurement and contract monitoring functions, and establish an implementation timeline. The plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate by August 1, 2011.

Section 31. Subsection (1) of section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, develop and implement a comprehensive redesign of the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services Medicaid waiver program among eligible enrolled clients. The service

delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall establish an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a diagnosis of Down syndrome or a developmental disability as defined in s. 393.063. The iBudget system shall be designed to provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a redefined role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and a methodology and process that ensures the equitable allocation of available funds to each client based on the client's level of need, as determined by the variables in the allocation algorithm.

(a) In developing each client's iBudget, the agency shall use an allocation algorithm and methodology. The algorithm shall use variables that have been determined by the agency to have a statistically validated relationship to the client's level of need for services provided through the home and community-based services Medicaid waiver program. The algorithm and methodology may consider individual characteristics, including, but not limited to, a client's age and living situation, information

from a formal assessment instrument that the agency determines is valid and reliable, and information from other assessment processes.

(b) The allocation methodology shall provide the algorithm that determines the amount of funds allocated to a client's iBudget. The agency may approve an increase in the amount of funds allocated, as determined by the algorithm, based on the client having one or more of the following needs that cannot be accommodated within the funding as determined by the algorithm and having no other resources, supports, or services available to meet the need:

1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. An extraordinary need may include, but is not limited to:

a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

c. A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or

d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal

hygiene.

However, the presence of an extraordinary need alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy, unless the increase is approved. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.

3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which

requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount of the portions to be reserved.

(c) A client's iBudget shall be the total of the amount determined by the algorithm and any additional funding provided pursuant to paragraph (b). A client's annual expenditures for home and community-based services Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.

Section 32. Section 409.902, Florida Statutes, is amended to read:

409.902 Designated single state agency; payment requirements; program title; release of medical records.—

(1) The Agency for Health Care Administration is designated as the single state agency authorized to make payments for medical assistance and related services under Title

XIX of the Social Security Act. These payments shall be made, subject to any limitations or directions provided for in the General Appropriations Act, only for services included in the program, shall be made only on behalf of eligible individuals, and shall be made only to qualified providers in accordance with federal requirements for Title XIX of the Social Security Act and the provisions of state law. This program of medical assistance is designated the "Medicaid program." The Department of Children and Family Services is responsible for Medicaid eligibility determinations, including, but not limited to, policy, rules, and the agreement with the Social Security Administration for Medicaid eligibility determinations for Supplemental Security Income recipients, as well as the actual determination of eligibility. As a condition of Medicaid eligibility, subject to federal approval, the Agency for Health Care Administration and the Department of Children and Family Services shall ensure that each recipient of Medicaid consents to the release of her or his medical records to the Agency for Health Care Administration and the Medicaid Fraud Control Unit of the Department of Legal Affairs.

(2) Eligibility is restricted to United States citizens and to lawfully admitted noncitizens who meet the criteria provided in s. 414.095(3).

(a) Citizenship or immigration status must be verified. For noncitizens, this includes verification of the validity of documents with the United States Citizenship and Immigration Services using the federal SAVE verification process.

(b) State funds may not be used to provide medical

services to individuals who do not meet the requirements of this subsection unless the services are necessary to treat an emergency medical condition or are for pregnant women. Such services are authorized only to the extent provided under federal law and in accordance with federal regulations as provided in 42 C.F.R. s. 440.255.

Section 33. Subsection (22) is added to section 641.19, Florida Statutes, to read:

641.19 Definitions.—As used in this part, the term:

(22) "Provider service network" means a network authorized under s. 409.912(4)(d), reimbursed on a prepaid basis, operated by a health care provider or group of affiliated health care providers, and which directly provides health care services under a Medicare, Medicaid, or Healthy Kids contract.

Section 34. Section 641.2019, Florida Statutes, is created to read:

641.2019 Provider service network certificate of authority.—A prepaid provider service network that applies for and obtains a health care provider certificate pursuant to part III of this chapter, meets the surplus requirements of s. 641.225, and meets all other applicable requirements of this part may obtain a certificate of authority under s. 641.21. A certified provider service network has the same rights and responsibilities as a health maintenance organization certified under this part.

Section 35. Subsection (2) of section 641.2261, Florida Statutes, is amended to read:

641.2261 Application of solvency requirements to provider-

sponsored organizations and Medicaid provider service networks.—

(2) Except for a provider service network seeking to obtain a certificate of authority under s. 641.2019, the solvency requirements in 42 C.F.R. s. 422.350, subpart H, and the solvency requirements established in approved federal waivers pursuant to chapter 409 apply to a Medicaid provider service network rather than the solvency requirements of this part.

Section 36. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 37. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2011, if HB 7107 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.